2015 EDITION

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT LAW

JANUARY 1, 2015

(Includes law changes
through the second year of the
2013/2014 Regular Session)

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California regulations are current through 2014 Register No. 45 (November 7, 2014).

ISBN: 978-1-63280-228-6

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State Constitution Extract

Article XVI of the California Constitution:
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.

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(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.

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Cross-Reference Table # 1—OLD to NEW

OLD	NEW	OLD	NEW	OLD	NEW
20000	20000	20009.5	20057(m)	20013.7	21070
20001	20001	20009.6	20057(n)	20013.75	21071
20002	20002	20009.7	20057(o)	20013.76	20485
20003	20003	20009.8	20057(p)	20014	20380
20004	20058	20009.9	20057(q)	20015	20381
20004.5	20033	20009.10	20057(r)	20015.5	20895
20004.6	20032	20009.11	20057(s)	20016	20382
20005	20021	20009.12	20057(t)	20017	20390
20006	20015	20009.13	20057(u)	20017.10	20416
20006.1	20133	20010	20022	20017.5	20399
20007	20062	20010.5	20051	20017.6	20400
20008	20071	20011	20030	20017.75	20401
20009	20056	20011.1	20063	20017.76	20402
20009.1	20057	20012	20028	20017.77	20403
20009.2	20057(j)	20013	20370	20017.78	20404
20009.3	20057(k)	20013.5	20371	20017.79	20405
20009.4	20057(l)	20013.6	21116	20017.8	20406

The Public Employees' Retirement Law (PERL) was reorganized by Senate Bill 541 (Chapter 379, Stats. of 1995), operative January 1, 1996, and by Senate Bill 1859 (Chapter 906, Stats. of 1996), operative January 1, 1997. The Public Employees' Medical and Hospital Care Act (PEMHCA) was also reorganized by Senate Bill 626 (Chapter 69, Statutes of 2004), operative June 24, 2004. These bills did not make substantive changes in the law. Assembly Bill 1595 (Chapter 951, Stats. of 1997), operative January 1, 1998, renumbered a few sections of the PERL and also made substantive amendments to the law. This table only reflects the renumbering or repeal of Government Code sections enacted by the statutes identified in this paragraph.

This cross-reference table lists each Government Code section from the January 1, 1995 version of the PERL ("Old") in numerical order and references each to the corresponding section number in the reorganized PERL ("New"). For Government Code sections contained in PEMHCA (beginning with Section 22750), this cross-reference table lists each Government Code section from the January 1, 2004 version of PEMHCA ("Old") in numerical order and references each to the corresponding section number in the reorganized PEMHCA ("New"). Following is a similar table in reverse order, New to Old.

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OLD	NEW	OLD	NEW	OLD	NEW
20017.81	20407	20020.7	20429	20024.02	20038
20017.82	20408	20020.8	20430	20024.03	20039
20017.85	20409	20020.9	20431	20024.05	20040
20017.86	20410	20020.10	Repealed	20024.1	20041
20017.88	20411	20021	20433	20024.2	20042
20017.9	20412	20021.01	20434	20025	20043
20017.91	20413	20021.1	20435	20025.2	20635
20017.93	20414	20021.5	20436	20026	20059
20017.94	20415	20021.6	20437	20026.1	20017
20017.95	20391	20021.8	20438	20026.2	20014
20017.96	20392	20021.9	20439	20026.3	20052
20017.97	20393	20021.10	20440	20027	20053
20017.975	20394	20021.11	20441	20028	20016
20017.98	20395	20022	20630	20029	20012
20017.985	20396	20022.01	20631	20030	20010
20017.986	20397	20022.1	20632	20031	20011
20017.99	20398	20022.15	21161	20031.5	20029
20018	20383	20022.2	20049	20031.6	20031
20019	20420	20022.3	20633	20032	20054
20019.3	20421	20022.4	20634	20033	20018
20019.35	20422	20023	20636	20034	20013
20019.37	20423	20023.01	20637	20035	20060
20019.4	20424	20023.1	20638	20036	20020
20019.51	20442	20023.3	20034	20037	20019
20019.52	20443	20023.4	21533	20038	20046
20019.53	20445	20023.5	21534	20038.4	20046.5
20019.6	20444	20023.6	20639	20038.5	20047
20020	20425	20023.7	20350	20038.6	20048
20020.1	20426	20024.001	20036	20039	20061
20020.5	20427	20024.002	20035	20040	20044
20020.6	20428	20024.01	20037	20041	20025

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OLD	NEW
20042	20351
20042.5	20352
20043	20353
20044	20354
20045	20355
20046	20356
20047	20027
20061	20150
20100	20090
20100.1	20091
20100.2	20092
20100.3	20094
20101	20095
20102	20096
20102.1	20095
20103	20120
20104	20097
20105	20098
20105.5	20137
20106	20093
20107	20099
20108	20135
20120	20121
20121	20122
20123	20123
20123.6	20124
20124	20125
20124.4	20126
20124.5	20127
20124.6	20128
20125	20129

OLD	NEW
20126	20130
20127	20131
20129	20220
20130	20132
20130.5	20813
20131.01	20798
20131.1	20799
20132.6	20178
20133	20134
20134	20230
20134.1	20230
20135	21264
20135.1	21265
20136	20232
20137	Repealed
20138	20234
20139	20235
20139.5	20236
20140	Repealed
20140.1	Repealed
20141	20808(a)
20142	20808(b)
20143	20231
20144	21458
20145	20229
20147	20138
20160	20221
20161	20222
20162	20222.5
20163	20223
20164	20224

OLD	NEW
20164.5	21450
20165	20163
20166	20260
20167	20261
20168	20262
20169	20263
20169.1	20264
20180	20160
20180.1	20161
20180.2	20162
20181	20164
20182	20265
20200	20170
20201	20171
20202	20172
20202.5	20173
20203	20174
20203.2	20175
20203.3	20176
20204	20177
20205	20191
20205.4	20192
20205.5	20193
20205.6	20190
20205.7	20194
20205.8	20151
20205.81	Repealed
20205.85	20152
20205.9	20195
20205.90	20196
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Cross-Reference Table # 1—OLD to NEW

OLD	NEW	OLD	NEW	OLD	NEW
20205.93	20199	20331	20301	20456	20468
20206	20206	20331.5	20302	20457	20469
20206.1	20207(a)	20332	20303	20458	20470
20206.2	20208	20332.5	20304	20460	20471
20206.3	20209	20333	20300(g)	20461	20472
20206.5	20232	20334	20305	20461.1	20473
20208	21500	20335	20300(h)	20461.5	20474
20208.5	20203	20337	20300(i)	20461.6	20475
20210	Repealed	20338	20300(j)	20462	20476
20211	21251	20339	20300(k)	20463	20477
20212	21267	20340	20300(l)	20464	20478
20213	21268	20360	20320	20465	20266
20215	20200	20360.5	20321	20466	20479
20215.5	20201	20361	20322	20490	20500
20216	20210(b)	20362	20322(f)	20491	20501
20216.5	20210	20363	20323	20492	20502
20217	20153	20364	20324	20492.1	20503
20218	20202	20365	20325	20492.2	20504
20230	20225	20390	20340	20492.3	20505
20230.5	20226	20390.1	21075	20493	20506
20231	20227	20390.2	20341	20493.5	20507
20233	20228	20392	20342	20496	20512
20300	20280	20393	20731	20497.5	20513
20301	20281	20450	20460	20498	20514
20302.5	20281	20450.1	20461	20499	20515
20303	20281	20450.5	20462	20499.5	20480
20303.5	20282	20451	20463	20500	20516
20304	20283	20451.5	20464	20520	20481
20307	20284	20452	20465	20521	20482
20308	20285	20453	20466	20521.1	20486
20330	20300	20453.5	20467	20522	20530

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Cross-Reference Table # 1—OLD to NEW

OLD	NEW	OLD	NEW	OLD	NEW
20523	20531	20562.1	20573	20585	20617
20524	20483	20562.2	20575	20586	20904
20524.1	20484	20563	20576	20590	20618
20525	20532	20564	20577	20600	20670
20526	20532	20564.1	20578	20600.1	20671
20527	20532	20564.5	20579	20600.5	20672
20527.1	20533	20565	20580	20601	20673
20529	20534	20565.1	20581	20602	20674
20530	20535	20566	20582	20602.92	20675
20531	20536	20567	20583	20602.93	20676
20531.5	20537	20567.1	20508	20603	20677
20540	20550	20567.3	20509	20603.01	20678
20541	20551	20567.7	20510	20603.02	20679
20542	20552	20567.8	20511	20603.03	20680
20543	20553	20568	20584	20603.2	20681
20544	20554	20569	20585	20604	20682
20545	20555	20569.1	20586	20605	20683
20546	20556	20569.2	20587	20605.1	20684
20547	21091	20569.3	20588	20605.5	20685
20547.1	21092	20569.4	20589	20606	20686
20547.2	21093	20570	20590	20607	20687
20547.3	21094	20570.1	20591	20611	21351
20547.4	21095	20571	20592	20612	20688
20547.5	21096	20572	20593	20613	20689
20547.6	21097	20580	20610	20614	20690
20547.7	21098	20580.01	20611	20615	20691
20547.8	21099	20580.1	20612	20615.5	20692
20550	20136	20580.2	20613	20616	20693
20560	20570	20580.3	20614	20630	20710
20561	20571	20581	20615	20631	20711
20562	20572	20582	20616	20632	20712

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Cross-Reference Table # 1—OLD to NEW

OLD	NEW	OLD	NEW	OLD	NEW
20650	20732	20750.1	20795	20757.2	20831
20651.1	20733	20750.100	20797	20758	20832
20651.4	20734	20750.11	20796	20758.1	20833
20652	20735	20750.17	20800	20759	20834
20652.1	20736	20750.2	20801	20759.1	20835
20653	20737	20750.3	20802	20759.2	20836
20654	20750	20750.31	20803	20759.3	20834
20654.2	20751	20750.42	20804	20780	20860
20654.3	20752	20750.5	20805	20781	20861
20655.1	20753	20750.8	20806	20782	20862
20655.2	20754	20750.81	20807	20783	20863
20656	20755	20750.82	20809	20785	20864
20657	20756	20750.83	20810	20790	20825
20680	20770	20750.84	20811	20791	20239
20681	20771	20750.85	20812	20800	Repealed
20681.5	20772	20750.905	20814	20801	20069
20682	20773	20750.91	20815	20801.1	20069
20683	20774	20750.92	20816	20802	20045
20684	20775	20750.93	20817	20803	20050
20685	20776	20750.94	Repealed	20803.1	20023
20700	20720	20750.96	20819	20803.2	20890
20701	20721	20750.97	20820	20803.21	20064
20702	20722	20750.98	20821	20803.3	20066
20703	20723	20751	20822	20803.35	20067
20704	20724	20751.5	20823	20803.4	20068(c)
20705	20725	20752	20824	20803.7	20068(a)
20740	20790	20754	20826	20803.8	20068(b)
20741	20791	20755	20827	20803.9	20068(d)
20742	20792	20755.1	20828	20803.94	20068(e)
20745	20793	20756	20829	20803.95	20891
20750	20794	20757	20830	20803.96	20068(f)

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OLD	NEW	OLD	NEW	OLD	NEW
20804	20024	20837	20939	20899	21000
20805	20055	20840	20940	20899.1	21001
20806.1	20065	20860	20960	20899.5	21002
20807	20892	20861	20961	20900	21008
20808	20893	20862	20962	20900.1	21009
20809	20894	20862.5	20963	20901	21010
20809.1	20896	20862.6	20963	20901.5	21011
20809.2	20897	20862.7	20964	20902	21012
20810	20898	20862.8	20965	20930	21020
20813.1	21072	20863	20966	20930.1	21021
20813.5	21073	20864	20967	20930.11	21022
20814	20899	20864.5	20968	20930.2	21023
20815	20900	20864.6	20969	20930.3	21024
20816	20901	20865	20970	20930.31	21025
20817	20902	20867	20972	20930.32	21026
20818	20903	20868	20267	20930.33	21027
20819	20905	20890	20990	20930.4	21028
20819.5	20906	20892.5	20991	20930.5	21029
20820	21090	20893	20992	20930.86	21030
20821.5	20907	20894	20993	20930.90	21031
20821.6	20903.5	20894.1	20994	20931	21032
20822.1	20908	20894.2	20995	20932	21033
20830	20930	20894.3	20996	20933	21034
20831	20931	20894.5	20997	20934	21035
20832	20932	20894.7	20998	20935	21036
20834	20933	20895	21003	20938	21037
20834.1	20934	20895.1	21004	20938.1	21038
20834.12	20936	20896	Repealed	20950	21060
20834.2	20935	20897	21005	20950.1	21074
20835	20937	20898	21006	20952	21061
20835.1	20938	20898.1	21007	20952.5	21062

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OLD	NEW	OLD	NEW	OLD	NEW
20953	21117	21026.3	21169	21158	21229
20954	21118	21026.4	21170	21200	21250
20960	21110	21026.5	21171	21200.1	21252
20961	21111	21027	21174	21200.3	21253
20962	21112	21028	21192	21200.5	21254
20963	21113	21029	21193	21201	21255
20964	21114	21031	21175	21201.5	21256
20965	21115	21032	21176	21202	21257
20980	21130	21033	21172	21202.5	21258
20980.1	21131	21034	21173	21203	21259
20980.5	21132	21100	21190	21204	21490
20986	20730	21100.1	21191	21204.5	21491
20999	21003	21100.5	21194	21205	21492
21020	20026	21100.55	21195	21206	21501
21020.5	21159	21101	21196	21207	21502
21020.6	21160	21101.1	21197	21208	21260
21021	21150	21101.5	21198	21209	21261
21022.2	21151	21101.6	21199	21209.3	21262
21023	21152	21102	21200	21210	21263
21023.5	21153	21102.1	21201	21211	21493
21024	21154	21102.5	21202	21211.1	21494
21024.1	21155	21103	21203	21211.2	21495
21025	21156	21150	21220	21211.3	21496
21025.1	21157	21151	21221	21211.4	21497
21025.2	21163	21151.1	21222	21211.5	21498
21025.3	21158	21152	21223	21211.6	21499
21025.4	21164	21153	21224	21212	21269
21025.5	21165	21154	21225	21215	21290
21026	21166	21155	21226	21215.1	21291
21026.1	21167	21155.1	21227	21215.2	21292
21026.2	21168	21157	21228	21215.3	21293

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OLD	NEW	OLD	NEW	OLD	NEW
21215.4	21294	21227	21333	21252.7	21371
21215.5	21295	21228	21334	21252.8	21372
21215.6	21296	21230	21335	21252.9	21373
21215.7	21297	21232	21336	21252.95	21374
21215.8	21298	21235.5	21337	21253	21375
21220	21310	21236.5	21338	21253.1	21376
21221	21311	21239	21119	21253.2	21377
21221.5	21312	21250	21350	21253.3	21378
21222	21313	21251	21352	21254	21379
21222.3	21314	21251.13	21353	21257.3	21380
21222.31	21315	21251.132	21354	21258.1	21381
21222.32	21316	21251.133	21100	21258.2	21382
21222.4	21317	21251.135	21355	21259	21383
21222.5	21318	21251.14	21356	21260	21384
21222.6	21319	21251.146	21076	21261	21385
21222.7	21320	21251.147	21077	21263	21624
21222.71	21321	21251.15	21357	21263.01	21625
21021.5	21162	21251.16	21358	21263.1	21626
21022	21151	21251.17	21359	21263.2	21627
21022.1	21151	21251.65	21360	21263.3	21628
21222.72	21322	21252	21361	21263.4	21629
21222.8	21323	21252.01	21362	21263.5	21630
21222.81	21324	21252.02	21363	21263.6	21631
21222.85	21325	21252.021	Repealed	21263.65	21386
21222.86	21326	21252.03	21364	21263.7	21632
21223	21327	21252.04	21365	21263.71	21633
21223.5	21328	21252.1	21366	21263.8	21387
21224	21329	21252.45	21367	21263.81	21388
21224.5	21330	21252.5	21368	21264.6	21634
21225	21331	21252.6	21369	21266	21635
21226	21332	21252.61	21370	21290	21400

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OLD	NEW	OLD	NEW	OLD	NEW
21290.01	21401	21307	21430	21365.5	21546
21290.1	21402	21330	21451	21365.51	21120
21290.5	21403	21330.1	21503	21365.55	21547
21290.6	21415	21330.5	21452	21365.6	21548
21291	21404	21331	21453	21365.7	21549
21291.5	21405	21331.5	21454	21366	21543
21292	21406	21332	21455	21367	21544
21292.1	21407	21333	21456	21367.51	21620
21292.2	21408	21334	21457	21367.52	21621
21292.3	21409	21335	21458	21367.53	21622
21292.4	21410	21336	21459	21367.54	21623
21292.5	21411	21337	21460	21367.6	21506
21292.51	21416	21338	21461	21368	21507
21292.6	21417	21339	21462	21370	21508
21292.9	21412	21339.1	21463	21371	21509
21293	21418	21340	21464	21372	21550
21293.1	21419	21360	21530	21373	21551
21294	21413	21360.1	21504	21380	20070
21294.1	21414	21360.5	21505	21382	21571
21294.2	21420	21361	21532	21382.2	21572
21294.4	21421	21361.1	20971	21382.4	21573
21295	21422	21361.2	21535	21382.5	21574
21296	21423	21361.5	21536	21383	21575
21296.01	21424	21363	21537	21384	21576
21296.1	21425	21363.3	21538	21385	21577
21297	21426	21363.5	21539	21385.5	21578
21298	21427	21363.6	21540	21385.6	21579
21299	21431	21363.7	21540.5	21385.7	21580
21300	21432	21364	21541	21386	21581
21305	21428	21365	21542	21386.5	21582
21306	21429	21365.1	21531	21387	21570

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OLD	NEW	OLD	NEW	OLD	NEW
21388	21583	21452	20253	22754(a)	22762
21400	21600	21453	20253	22754(b)(1)	22772(a)(1), (a)(2), (b)
21401	21601	21454	20254	22754(b)(2)	Repealed
21402	21602	21455	20255	22754(b)(3)	22772(a)(3)
21403	21603	21456	20250	22754(c)	22764
21404	21604	21500	21266	22754(d)	22777
21405	21605	21600	20574	22754(e)	22760 (a) - (c),(e)
21406	Repealed	21610	21690	22754(f)	22775(a)
21410	21660	21611	21691	22754(g)	22920
21411	21661	21612	21692	22754(h)	22773
21412	21662	21750	21750	22754(i)	22785
21413	21663	21751	21751	22754.1	22772(a)(4)
21414	21664	21752	21752	22754.15	Repealed
21420	21670	21752.3	21752.5	22754.16	22760(d)
21421	21671	21752.5	21753	22754.2(a)	22772(a)(5)
21422	21672	21752.6	21754	22754.2(b)	Repealed
21422.1	21673	21752.7	21755	22754.35	Repealed
21423	21674	21754	21756	22754.4	22766
21424	21675	21755	21757	22756	22753
21425	21676	21756	21758	22771	22790
21426	21677	21757	21759	22772	22792
21427	21678	21758	21760	22773	22794
21428	21679	21759	21761	22774	22793
21429	21680	21760	21762	22774	22795
21430	21681	21761	21763	22775	22796
21431	21682	21762	21764	22775.5	22860
21432	21683	21763	21765	22776	22855
21433	21684	22751	22750	22777	22846 (a)
21450	20251	22752	22751		
21451	20252	22753	22755		

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Cross-Reference Table # 1—OLD to NEW

OLD	NEW	OLD	NEW	OLD	NEW
22778	22863	22810.1	22802(a), (b)(1),(b)(3), (c),(d)	22818	22805
22779	22869	22810.3	22802(e)	22819	22844
22780	22797	22810.4	22812	22820	22846(b)
22790(a)-(b)	22850(b)-(c) 22853(e)	22810.6	22825	22821	22819
22790(c)	22850(g)	22811	22843	22821.1	Repealed
22790(d)	Repealed	22811.5	Repealed	22821.2	22820
22790(e)	22850(f)	22812	22842	22821.3	22847
22790.2	22823	22813	22841	22822	22806
22790.4	22850(d)	22813.5	22839	22823	22822
22790.5	22915	22813.6	22840	22825	22870 & 22890
22791(a)-(d)	Repealed	22814	22836	22825(b)	22892
22791(e)	22850(e)	22815	22848	22825.01	22877
22791(f)	22850(d)	22816	22808(a)-(b); 22814(a)	22825.1	22871
22791	22866	22816.1	22809	22825.10	22871.6
22791	22850(h)	22816.31	22814(b)	22825.11	22871.7
22791.5	22851	22816.5	22808(c)	22825.12	22871.8
22792	22850(a)	2816.7(a)(1)	22774	22825.14	22889
22792	22852	22816.7(a)(2)	22760(f)-(g)	22825.14	22905
22793	22853(a)-(d)	22816.7(a)(3)	22815(a)	22825.15	22871.5
22793.1	22859	22816.7(b)	22817	22925.17	22878
22793.2	22853.1	22816.7(c)	22815(b)	22825.19	22871.9
22794	22864	22816.7(d)	22815(d)	22825.2(a)	22873
22794.1	22865	22816.7(e)	22816	22825.2(b)	22876(a)
22795	22867	22816.7(f)	22815(e)	22825.2(c)	22873
22810	22760(h) 22800; 22830; 22831; 22832; 22837	22816.8	Repealed	22825.3(a)	22874
		22817	22810	22825.3 (b)-(e),(f),(h)	22875
		22817.5	22811	22825.3(f),(g)	22875.5
				22825.4	22876(b)-(c)

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OLD	NEW	OLD	NEW	OLD	NEW
22825.5	22893	22858	22931	22878	Repealed
22825.6	22892	22859	22937	22878.1(a)	22783
22825.7	22879	22859.1	22897	22878.1(b)	Repealed
22826	22885	22859.2	22895	22878.2	22807
22827	22880	22860	22779	22878.3	22760(i)
22827.5	22910	22861	22803	22880	22940
22828	22881	22862	22857(b)	22881	Repealed
22828.5	22883(a)	22862.1	22779; 22857(a)	22881.1	22781
22829	22883(b)	22862.2	22834(a)-(b)	22882	22942
22831	22901	22863	22872	22883	22944
22832	22899	22864	22834(c)	22890	22945
22840	22910	22864.1	22834(a)	22891	22946
22840.2	22911	22865	Repealed	22892	22947
22840.3	22866	22866	Repealed	22893	22948
22841	22913(a),(b)	22867	Repealed	22950	22950
22842	22913(c)	22868	22770	22951	22951
22850	22922(a),(c)	22869	22771	22952	22953
22850.1	22927	22871	22775(b)	22952.1	22954
22850.2	22928	22871.1	Repealed	22952.2	22955
22850.3	22922(b)	22871.2	22818.5	22953	22956
22850.5	22930	22871.3	Repealed	22954	22957
22851	22932	22872	22818(b)-(c)	22955	22958
22852	22934	22873	22929	22955.1	Repealed
22853	22938	22874	22887.5; 22903.5	22955.2	Repealed
22854	22939	22875	22818(a)(2)-(a)(5)	22955.5	Repealed
22855	Repealed	22876	Repealed	22955.55	Repealed
22856	Repealed	22877	22887; 22903	22957	22953
22857	22892			22958	22959

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NEW	OLD	NEW	OLD	NEW	OLD
20000	20000	20037	20024.01	20057(s)	20009.11
20001	20001	20038	20024.02	20057(t)	20009.12
20002	20002	20039	20024.03	20057(u)	20009.13
20003	20003	20040	20024.05	20058	20004
20010	20030	20041	20024.1	20059	20026
20011	20031	20042	20024.2	20060	20035
20012	20029	20043	20025	20061	20039
20013	20034	20044	20040	20062	20007
20014	20026.2	20045	20802	20063	20011.1
20015	20006	20046	20038	20064	20803.21
20016	20028	20046.5	20038.4	20065	20806.1
20017	20026.1	20047	20038.5	20066	20803.3
20018	20033	20048	20038.6	20067	20803.35
20019	20037	20049	20022.2	20068(a)	20803.7
20020	20036	20050	20803	20068(b)	20803.8
20021	20005	20051	20010.5	20068(c)	20803.4
20022	20010	20052	20026.3	20068(d)	20803.9
20023	20803.1	20053	20027	20068(e)	20803.94
20024	20804	20054	20032	20068(f)	20803.96
20025	20041	20055	20805	20069	20801.1
20026	21020	20056	20009	20069	20801
20027	20047	20057	20009.1	Repealed	20800
20028	20012	20057(j)	20009.2	20070	21380
20029	20031.5	20057(k)	20009.3	20071	20008
20030	20011	20057(l)	20009.4	20090	20100
20031	20031.6	20057(m)	20009.5	20091	20100.1
20032	20004.6	20057(n)	20009.6	20092	20100.2
20033	20004.5	20057(o)	20009.7	20093	20106
20034	20023.3	20057(p)	20009.8	20094	20100.3
20035	20024.002	20057(q)	20009.9	20095	20101
20036	20024.001	20057(r)	20009.10	20095	20102.1

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NEW	OLD	NEW	OLD	NEW	OLD
20096	20102	20164	20181	20221	20160
20097	20104	20170	20200	20222	20161
20098	20105	20171	20201	20222.5	20162
20099	20107	20172	20202	20223	20163
20120	20103	20173	20202.5	20224	20164
20121	20120	20174	20203	20225	20230
20122	20121	20175	20203.2	20226	20230.5
20123	20123	20176	20203.3	20227	20231
20124	20123.6	20177	20204	20228	20233
20125	20124	20178	20132.6	20229	20145
20126	20124.4	20190	20205.6	20230	20134
20127	20124.5	20191	20205	20230	20134.1
20128	20124.6	20192	20205.4	20231	20143
20129	20125	20193	20205.5	20232	20136
20130	20126	20194	20205.7	20232	20206.5
20131	20127	20195	20205.9	Repealed	20137
20132	20130	20196	20205.90	20234	20138
20133	20006.1	20197	20205.91	20235	20139
20134	20133	20198	20205.92	20236	20139.5
20135	20108	20199	20205.93	Repealed	20140
20136	20550	20200	20215	Repealed	20140.1
20137	20105.5	20201	20215.5	20239	20791
20138	20147	20202	20218	20250	21456
20150	20061	20203	20208.5	20251	21450
20151	20205.8	Repealed	20210	20252	21451
Repealed	20205.81	20206	20206	20253	21452
20152	20205.85	20207(a)	20206.1	20253	21453
20153	20217	20208	20206.2	20254	21454
20160	20180	20209	20206.3	20255	21455
20161	20180.1	20210	20216.5	20260	20166
20162	20180.2	20210(b)	20216	20261	20167
20163	20165	20220	20129	20262	20168

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NEW	OLD	NEW	OLD	NEW	OLD
20263	20169	20325	20365	20404	20017.78
20264	20169.1	20340	20390	20405	20017.79
20265	20182	20341	20390.2	20406	20017.8
20266	20465	20342	20392	20407	20017.81
20267	20868	20350	20023.7	20408	20017.82
20280	20300	20351	20042	20409	20017.85
20281	20302.5	20352	20042.5	20410	20017.86
20281	20301	20353	20043	20411	20017.88
20281	20303	20354	20044	20412	20017.9
20282	20303.5	20355	20045	20413	20017.91
20283	20304	20356	20046	20414	20017.93
20284	20307	20370	20013	20415	20017.94
20285	20308	20371	20013.5	20416	20017.10
20300	20330	20380	20014	20420	20019
20300(g)	20333	20381	20015	20421	20019.3
20300(h)	20335	20382	20016	20422	20019.35
20300(i)	20337	20383	20018	20423	20019.37
20300(j)	20338	20390	20017	20424	20019.4
20300(k)	20339	20391	20017.95	20425	20020
20300(l)	20340	20392	20017.96	20426	20020.1
20301	20331	20393	20017.97	20427	20020.5
20302	20331.5	20394	20017.975	20428	20020.6
20303	20332	20395	20017.98	20429	20020.7
20304	20332.5	20396	20017.985	20430	20020.8
20305	20334	20397	20017.986	20431	20020.9
20320	20360	20398	20017.99	Repealed	20020.10
20321	20360.5	20399	20017.5	20433	20021
20322	20361	20400	20017.6	20434	20021.01
20322(f)	20362	20401	20017.75	20435	20021.1
20323	20363	20402	20017.76	20436	20021.5
20324	20364	20403	20017.77	20437	20021.6

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20438	20021.8	20483	20524	20550	20540
20439	20021.9	20484	20524.1	20551	20541
20440	20021.10	20485	20013.76	20552	20542
20441	20021.11	20486	20521.1	20553	20543
20442	20019.51	20500	20490	20554	20544
20443	20019.52	20501	20491	20555	20545
20444	20019.6	20502	20492	20556	20546
20445	20019.53	20503	20492.1	20570	20560
20460	20450	20504	20492.2	20571	20561
20461	20450.1	20505	20492.3	20572	20562
20462	20450.5	20506	20493	20573	20562.1
20463	20451	20507	20493.5	20574	21600
20464	20451.5	20508	20567.1	20575	20562.2
20465	20452	20509	20567.3	20576	20563
20466	20453	20510	20567.7	20577	20564
20467	20453.5	20511	20567.8	20578	20564.1
20468	20456	20512	20496	20579	20564.5
20469	20457	20513	20497.5	20580	20565
20470	20458	20514	20498	20581	20565.1
20471	20460	20515	20499	20582	20566
20472	20461	20516	20500	20583	20567
20473	20461.1	20530	20522	20584	20568
20474	20461.5	20531	20523	20585	20569
20475	20461.6	20532	20525	20586	20569.1
20476	20462	20532	20526	20587	20569.2
20477	20463	20532	20527	20588	20569.3
20478	20464	20533	20527.1	20589	20569.4
20479	20466	20534	20529	20590	20570
20480	20499.5	20535	20530	20591	20570.1
20481	20520	20536	20531	20592	20571
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20610	20580	20682	20604	20752	20654.3
20611	20580.01	20683	20605	20753	20655.1
20612	20580.1	20684	20605.1	20754	20655.2
20613	20580.2	20685	20605.5	20755	20656
20614	20580.3	20686	20606	20756	20657
20615	20581	20687	20607	20770	20680
20616	20582	20688	20612	20771	20681
20617	20585	20689	20613	20772	20681.5
20618	20590	20690	20614	20773	20682
20630	20022	20691	20615	20774	20683
20631	20022.01	20692	20615.5	20775	20684
20632	20022.1	20693	20616	20776	20685
20633	20022.3	20710	20630	20792	20742
20634	20022.4	20711	20631	20793	20745
20635	20025.2	20712	20632	20794	20750
20636	20023	20720	20700	20795	20750.1
20637	20023.01	20721	20701	20796	20750.11
20638	20023.1	20722	20702	20797	20750.100
20639	20023.6	20723	20703	20798	20131.01
20670	20600	20724	20704	20799	20131.1
20671	20600.1	20725	20705	20800	20750.17
20672	20600.5	20730	20986	20801	20750.2
20673	20601	20731	20393	20802	20750.3
20674	20602	20732	20650	20803	20750.31
20675	20602.92	20733	20651.1	20804	20750.42
20676	20602.93	20734	20651.4	20805	20750.5
20677	20603	20735	20652	20806	20750.8
20678	20603.01	20736	20652.1	20807	20750.81
20679	20603.02	20737	20653	20808(a)	20141
20680	20603.03	20750	20654	20808(b)	20142
20681	20603.2	20751	20654.2	20809	20750.82

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20810	20750.83	20863	20783	20940	20840
20811	20750.84	20864	20785	20960	20860
20812	20750.85	20890	20803.2	20961	20861
20813	20130.5	20891	20803.95	20962	20862
20814	20750.905	20892	20807	20963	20862.5
20815	20750.91	20893	20808	20963	20862.6
20816	20750.92	20894	20809	20964	20862.7
20817	20750.93	20895	20015.5	20965	20862.8
Repealed	20750.94	20896	20809.1	20966	20863
20819	20750.96	20897	20809.2	20967	20864
20820	20750.97	20898	20810	20968	20864.5
20821	20750.98	20899	20814	20969	Repealed
20822	20751	20900	20815	20970	20865
20823	20751.5	20901	20816	20971	21361.1
20824	20752	20902	20817	20972	20867
20825	20790	20903	20818	20990	20890
20826	20754	20904	20586	20991	20892.5
20827	20755	20905	20819	20992	20893
20828	20755.1	20906	20819.5	20993	20894
20829	20756	20907	20821.5	20994	20894.1
20830	20757	20908	20822.1	20995	20894.2
20831	20757.2	20930	20830	20996	20894.3
20832	20758	20931	20831	20997	20894.5
20833	20758.1	20932	20832	20998	20894.7
20834	20759	20933	20834	Repealed	20896
20834	20759.3	20934	20834.1	21000	20899
20835	20759.1	20935	20834.2	21001	20899.1
20836	20759.2	20936	20834.12	21002	20899.5
20860	20780	20937	20835	21003	20999
20861	20781	20938	20835.1	21004	20895.1
20862	20782	20939	20837	21005	20897

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21006	20898	21072	20813.1	21150	21021
21007	20898.1	21073	20813.5	21151	21022
21008	20900	21074	20950.1	21151	21022.1
21009	20900.1	21075	20390.1	21151	21022.2
21010	20901	21076	21251.146	21152	21023
21011	20901.5	21077	21251.147	21153	21023.5
21012	20902	21090	20820	21154	21024
21020	20930	21091	20547	21155	21024.1
21021	20930.1	21092	20547.1	21156	21025
21022	20930.11	21093	20547.2	21157	21025.1
21023	20930.2	21094	20547.3	21158	21025.3
21024	20930.3	21095	20547.4	21159	21020.5
21025	20930.31	21096	20547.5	21160	21020.6
21026	20930.32	21097	20547.6	21161	20022.15
21027	20930.33	21098	20547.7	21162	21021.5
21028	20930.4	21099	20547.8	21163	21025.2
21029	20930.5	21100	21251.133	21164	21025.4
21030	20930.86	21110	20960	21165	21025.5
21031	20930.90	21111	20961	21166	21026
21032	20931	21112	20962	21167	21026.1
21033	20932	21113	20963	21168	21026.2
21034	20933	21114	20964	21169	21026.3
21035	20934	21115	20965	21170	21026.4
21036	20935	21116	20013.6	21171	21026.5
21037	20938	21117	20953	21172	21033
21038	20938.1	21118	20954	21173	21034
21060	20950	21119	21239	21174	21027
21061	20952	21120	21365.51	21175	21031
21062	20952.5	21130	20980	21176	21032
21070	20013.7	21131	20980.1	21190	21100
21071	20013.75	21132	20980.5	21191	21100.1

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21192	21028	21259	21203	21321	21222.71
21193	21029	21260	21208	21322	21222.72
21194	21100.5	21261	21209	21323	21222.8
21195	21100.55	21262	21209.3	21324	21222.81
21196	21101	21263	21210	21325	21222.85
21197	21101.1	21264	20135	21326	21222.86
21198	21101.5	21265	20135.1	21327	21223
21199	21101.6	21266	21500	21328	21223.5
21200	21102	21267	20212	21329	21224
21201	21102.1	21268	20213	21330	21224.5
21202	21102.5	21269	21212	21331	21225
21203	21103	21290	21215	21332	21226
21220	21150	21291	21215.1	21333	21227
21221	21151	21292	21215.2	21334	21228
21222	21151.1	21293	21215.3	21335	21230
21223	21152	21294	21215.4	21336	21232
21224	21153	21295	21215.5	21337	21235.5
21225	21154	21296	21215.6	21338	21236.5
21226	21155	21297	21215.7	21350	21250
21227	21155.1	21298	21215.8	21351	20611
21228	21157	21310	21220	21352	21251
21229	21158	21311	21221	21353	21251.13
21250	21200	21312	21221.5	21354	21251.132
21251	20211	21313	21222	21355	21251.135
21252	21200.1	21314	21222.3	21356	21251.14
21253	21200.3	21315	21222.31	21357	21251.15
21254	21200.5	21316	21222.32	21358	21251.16
21255	21201	21317	21222.4	21359	21251.17
21256	21201.5	21318	21222.5	21360	21251.65
21257	21202	21319	21222.6	21361	21252
21258	21202.5	21320	21222.7	21362	21252.01

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21364	21252.03	21406	21292	21454	21331.5
21365	21252.04	21407	21292.1	21455	21332
21366	21252.1	21408	21292.2	21456	21333
21367	21252.45	21409	21292.3	21457	21334
21368	21252.5	21410	21292.4	21458	20144
21369	21252.6	21411	21292.5	21458	21335
21370	21252.61	21412	21292.9	21459	21336
21371	21252.7	21413	21294	21460	21337
21372	21252.8	21414	21294.1	21461	21338
21373	21252.9	21415	21290.6	21462	21339
21374	21252.95	21416	21292.51	21463	21339.1
21375	21253	21417	21292.6	21464	21340
21376	21253.1	21418	21293	21490	21204
21377	21253.2	21419	21293.1	21491	21204.5
21378	21253.3	21420	21294.2	21492	21205
21379	21254	21421	21294.4	21493	21211
21380	21257.3	21422	21295	21494	21211.1
21381	21258.1	21423	21296	21495	21211.2
21382	21258.2	21424	21296.01	21496	21211.3
21383	21259	21425	21296.1	21497	21211.4
21384	21260	21426	21297	21498	21211.5
21385	21261	21427	21298	21499	21211.6
21386	21263.65	21428	21305	21500	20208
21387	21263.8	21429	21306	21501	21206
21388	21263.81	21430	21307	21502	21207
21400	21290	21431	21299	21503	21330.1
21401	21290.01	21432	21300	21504	21360.1
21402	21290.1	21450	20164.5	21505	21360.5
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21508	21370	21577	21385	21661	21411
21509	21371	21578	21385.5	21662	21412
21530	21360	21579	21385.6	21663	21413
21531	21365.1	21580	21385.7	21664	21414
21532	21361	21581	21386	21670	21420
21533	20023.4	21582	21386.5	21671	21421
21534	20023.5	21583	21388	21672	21422
21535	21361.2	21600	21400	21673	21422.1
21536	21361.5	21601	21401	21674	21423
21537	21363	21602	21402	21675	21424
21538	21363.3	21603	21403	21676	21425
21539	21363.5	21604	21404	21677	21426
21540	21363.6	21605	21405	21678	21427
21540.5	21363.7	Repealed	21406	21679	21428
21541	21364	21620	21367.51	21680	21429
21542	21365	21621	21367.52	21681	21430
21543	21366	21622	21367.53	21682	21431
21544	21367	21623	21367.54	21683	21432
21546	21365.5	21624	21263	21684	21433
21547	21365.55	21625	21263.01	21690	21610
21548	21365.6	21626	21263.1	21691	21611
21549	21365.7	21627	21263.2	21692	21612
21550	21372	21628	21263.3	21750	21750
21551	21373	21629	21263.4	21751	21751
21570	21387	21630	21263.5	21752	21752
21571	21382	21631	21263.6	21752.3	21752.5
21572	21382.2	21632	21263.7	21752.5	21752.3
21573	21382.4	21633	21263.71	21753	21752.5
21574	21382.5	21634	21264.6	21754	21752.6
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22751	22752
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22755	22753
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22760(i)	22878.3
22762	22754(a)
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22766	22754.4
22770	22868
22771	22869
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22772(a)(4)	22754.1
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22779	22860; 22862.1
22781	22881.1
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22800	22810
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22807	22878.2
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22809	22816.1
22810	22817
22811	22817.5
22812	22810.4

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22814(b)	22816.31
22815(a)	22816.7(a)(3)
22815(b)	22816.7(c)
22815(d)	22816.7(d)
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22850(g)	22790(c)
22850(h)	22791
22851	22791.5
22852	22792
22853(a)-(d)	22793
22853(e)	22790(a)
22853.1	22793.2
22855	22776
22857(a)	22862.1
22857(b)	22862
22859	22793.1
22860	22775.5
22863	22778
22864	22794
22865	22794.1
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22867	22795

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22869	22779
22870	22825
22871	22825.1
22871.5	22825.15
22871.6	22825.10
22871.7	22825.11
22871.8	22825.12
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22872	22863
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22874	22825.3(a)
22875	22825.3(b)-(d),(f),(h)
22875.5	22825.3(f),(g)
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22876(b)-(c)	22825.4
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22895	22859.2
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22901	22831
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22920	22754(g)
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PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Chapter 1. General Provisions

Article 1

General Provisions

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Article 3

Penalties

§ 20085.	Definition of Fraud and Penalties

ARTICLE 1. GENERAL PROVISIONS

§ 20000. Title

This part may be cited as the Public Employees' Retirement Law.

(Added by Stats. 1945, Ch. 123; amended in identical language by Stats. 1967, Ch. 84 and Ch. 1631, operative 7/1/68; repealed and added by Stats. 1995, Ch. 379.)

§ 20001. Purpose

The purpose of this part is to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting of retirement compensation and death benefits.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

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§ 20002. Creation and Continuation of System

The Public Employees' Retirement System created by Chapter 700 of the Statutes of 1931, as amended, is continued in existence under this part. This system is a unit of the Government Operations Agency.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1967, Ch. 84, by Stats. 1969, Ch. 138, and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2013, Ch. 352.)

§ 20003. Construction

Unless the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this part.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20004. Administration of the California Public Employees' Pension Reform Act of 2013

(a) It is the intent of the Legislature, in enacting this section and amending this part, to comply with, and implement the provisions of, the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to ensure the continued ability of the board to invest the retirement fund and administer the system in conformity with its duties and responsibilities and to ensure that members are provided with the retirement and related benefits to which they are entitled pursuant to law.

(b) To achieve the purposes set forth in subdivision (a), the board shall have all powers reasonably necessary to invest the assets associated with, and to administer and implement the provisions of, the California Public Employees' Pension Reform Act of 2013, to the extent and with the same effect as if the provisions of the act are contained in the Public Employees' Retirement Law. All laws governing the investment of the retirement fund, and the organization, procedures, and administrative duties and responsibilities of the board shall be applicable to the board in its administration of the California Public Employees' Pension Reform Act of 2013, to the extent these laws are not in conflict with, or are not inconsistent with, the act. If the board determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and the Public Employees' Retirement Law, the provisions of the California Public Employees' Pension Reform Act of 2013 shall control.

(c) Nothing in this section shall be construed to amend, supersede, limit, or extend the application of the provisions of the California Public Employees' Pension Reform Act of 2013.

(Added by Stats. 2013, Ch. 526.)

ARTICLE 2. DEFINITIONS

§ 20010. "Accumulated Additional Contributions"

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

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20011. "Accumulated Contributions"

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

(Added by Stats. 1945, Ch. 123; amended by Stats. 1965, Ch. 1183, and by Stats. 1968, Ch. 941, by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1985, Ch. 288; repealed and added by Stats. 1995, Ch. 379.)

§ 20012. "Accumulated Normal Contributions"

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

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20013. "Actuarial Equivalent"

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted and the actuarial interest rate fixed by the board.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1967, Ch. 1352; by Stats. 1991, Ch. 83, effective 6/30/91; and by Stats. 1993, Ch. 1168; repealed and added by Stats. 1995, Ch. 379.)

§ 20014. "Actuarial Interest Rate"

"Actuarial interest rate" means the interest rate fixed by the board for purposes of actuarial valuation of the assets and liabilities of this system.

(Added by Stats. 1967, Ch. 1352; amended by Stats. 1991, Ch. 83, effective 6/30/91; and by Stats. 1993, Ch. 1168; repealed and added by Stats. 1995, Ch. 379.)

§ 20015. "Actuary"

"Actuary" means an actuary regularly employed on a full-time or part-time basis by the board.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1986, Ch. 637; by Stats. 1991, Ch. 83, effective 6/30/91; and by Stats. 1993, Ch. 1168; repealed and added by Stats. 1995, Ch. 379.)

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§ 20016. "Additional Contributions"

"Additional contributions" means contributions made by members and their employers in addition to their normal contributions under Article 2 (commencing with Section 20710) of Chapter 8.

(Amended by Stats. 1974, Ch. 1177, effective 9/23/74; repealed and added by Stats. 1995, Ch. 379.)

§ 20017. "Annual Interest Rate"

"Annual interest rate" means the net earnings rate reduced by 110 basis points for purposes of crediting interest.

(Added by Stats. 1967, Ch. 1352; amended by Stats. 1991, Ch. 83, effective 6/30/91; and by Stats. 1993, Ch. 1168; repealed and added by Stats. 1995, Ch. 379.)

§ 20018. "Annuity"

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

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20019. "Beneficiary"

"Beneficiary" means any person or corporation designated by a member, a retired member, or by statute to receive a benefit payable under this part, on account of the death of a member or a retired member. A member or retired member may also designate the member's estate as a beneficiary.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 614; by Stats. 1963, Ch. 2098; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1981, Ch. 376; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20020. "Benefit"

"Benefit" means the retirement allowance, basic death benefit, limited death benefit, special death benefit, any monthly allowance for survivors of a member or retired person, the insurance benefit, the partial disability retirement program payment, or refund of accumulated contributions.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1975, Ch. 233; and by Stats. 1993, Ch. 513; repealed and added by Stats. 1995, Ch. 379.)

§ 20021. "Board"

"Board" means the Board of Administration of the Public Employees' Retirement System.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

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§ 20022. "Contracting Agency"

"Contracting agency" means any public agency that has elected to have all or any part of its employees become members of this system and that has contracted with the board for that purpose. "Contracting agency" also means any county office of education, school district, or community college district that has elected to have all or part of its employees participate in a risk pool and that has contracted with the board for that purpose.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 1133.)

§ 20023. "County Peace Officer Service"

"County peace officer service" shall include service rendered in the sheriff's office of a city and county in positions that were subsequently reclassified as positions within the definition of "county peace officer."

(Added by Stats. 1971, Ch. 1323, effective 11/1/71; repealed and added by Stats. 1995, Ch. 379.)

§ 20023.5. "County Retirement System"

"County retirement system" means a retirement system established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3, the County Employees Retirement Law of 1937.

(Added by Stats. 1996, Ch. 906.)

§ 20024. "Current Service"

"Current service" means all state service rendered by a member on and after the date upon which he or she first became a member, service in employment while not a member but after persons employed in the status of the member were eligible for membership, and public service designated as current service under Section 21034.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 1747; and by Stats. 1971, Ch. 319; repealed and added by Stats. 1995, Ch. 379.)

§ 20025. "Dependent"

"Dependent," in reference to any benefit provided, upon the death of a member, for a surviving dependent parent, or parent dependent upon the member for support, shall mean receipt of at least one-half of the parent's support from the member at the time of the member's death determined according to rules of the board.

(Added by Stats. 1961, Ch. 592; amended by Stats. 1975, Ch. 51; repealed and added by Stats. 1995, Ch. 379.)

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§ 20026. "Disability" and "Incapacity for Performance of Duty"

"Disability" and "incapacity for performance of duty" as a basis of retirement, mean disability of permanent or extended and uncertain duration, as determined by the board, or in the case of a local safety member by the governing body of the contracting agency employing the member, on the basis of competent medical opinion.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1975, Ch. 655; repealed and added by Stats. 1995, Ch. 379.)

§ 20027. "Disability," "Disabled," or "Incapacitated"

"Disability," "disabled," or "incapacitated" means, with respect to qualification for an allowance payable to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment that is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended and uncertain duration.

(Added by Stats. 1981, Ch. 963; repealed and added by Stats. 1995, Ch. 379.)

§ 20027.5. "Electronic Funds Transfer" and "Automated Clearinghouse"

(a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be executed by one of the following methods:

(1) An automated clearinghouse debit in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of the debit. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(2) An automated clearinghouse credit in which the person, through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(3) A Federal Reserve Wire Network transfer (Fedwire) originated by a person utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers may be made by Fedwire only if payment cannot, for good cause, be made according to paragraph (1) or (2), and the use of Fedwire is preapproved by the board. Banking costs

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incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

(b) For purposes of this section, "automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(Added by Stats. 2009, Ch. 118.)

§ 20028. "Employee"

"Employee" means all of the following:

(a) Any person in the employ of the state, a county superintendent of schools, or the university whose compensation, or at least that portion of his or her compensation that is provided by the state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. "Funds directly controlled by the state" includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency.

(c) City employees who prior to the effective date of the contract with the hospital are assigned to a hospital that became a contracting agency because of subdivision (p) of Section 20057 shall be deemed hospital employees from and after the effective date of the contract with the hospital for retirement purposes. City employees who after the effective date of the contract with the hospital become employed by the hospital, shall be considered as new employees of the hospital for retirement purposes.

(d) Any person in the employ of a school employer.

(e) Public health department or district employees who were employees prior to the date of assumption of the contract by the governing body of a county of the 15th class shall be deemed public health department or district employees from and after the effective date of assumption of the contract for retirement purposes. Employees who after the effective date of assumption of the contract become employed by the public health department or district shall be considered as new employees for retirement purposes.

(f) Officers, warrant officers, and enlisted personnel of the California National Guard not otherwise described in subdivision (a) rendering service authorized by Title 32 of the United States Code.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 1399; by Stats. 1971, Ch. 319 and Ch. 438; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; and by Stats. 1986, Ch. 981; repealed and added by

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Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1010; by Stats. 2001, Ch. 159; and by Stats. 2007, Ch. 355.)

§ 20029. "Employee Federal Contributions"

"Employee federal contributions" means those contributions required of employees under the federal system with respect to wages paid to individuals who perform services in employment in any coverage group included in the federal-state agreement, at the rate of taxes imposed on employees by Section 3101 of Title 26 of the United States Code for the respective calendar years set forth therein.

(Added by Stats. 1959, Ch. 2066, effective 7/20/59; amended by Stats. 1965, Ch. 662, operative 10/1/65; repealed and added by Stats. 1995, Ch. 379.)

§ 20030. "Employer"

"Employer" means the state, the university, a school employer, and any contracting agency employing an employee.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1967, Ch. 1631, operative 7/1/68; and by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/73; repealed and added by Stats. 1995, Ch. 379.)

§ 20031. "Employer Federal Contributions"

"Employer federal contributions" means those contributions required of employers under the federal system with respect to wages paid to individuals who perform services in employment in any coverage group included in the federal-state agreement, at the rate of taxes imposed on employers by Section 3111 of Title 26 of the United States Code for the respective calendar years set forth therein and all penalties and interest that may be required to be paid with respect to those wages under the federal-state agreement.

(Added by Stats. 1959, Ch. 2066, effective 7/20/59; amended by Stats. 1965, Ch. 662, operative 10/1/65; repealed and added by Stats. 1995, Ch. 379.)

§ 20032. "Federal-State Agreement"

"Federal-state agreement" means the agreement or any modification thereof executed by the board pursuant to Section 418 of Title 42 of the United States Code.

(Added by Stats. 1959, Ch. 2066, effective 7/20/59; repealed and added by Stats. 1995, Ch. 379.)

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§ 20033. "Federal System"

"Federal system" means the old age, survivors, disability, and health insurance provisions of the Social Security Act.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1981, Ch. 609; repealed and added by Stats. 1995, Ch. 379.)

§ 20034. Final Compensation—University of California Concurrent Retirement

The average monthly salary during any period of service as a member of any retirement system maintained by the university shall be considered compensation earnable by a member of this system for purposes of computing final compensation for the member providing he or she retires concurrently under both systems.

(Added by Stats. 1974, Ch. 1440; repealed and added by Stats. 1995, Ch. 379.)

§ 20035. "Final Compensation"—One Year—State Member

(a) Notwithstanding Section 20037, "final compensation" for the purposes of determining any pension or benefit with respect to a state member who retires or dies on or after July 1, 1991, and with respect to benefits based on service with the state, means the highest annual compensation which was earnable by the state member during the consecutive 12-month period of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier or during any other period of 12 consecutive months during his or her membership in this system that the member designates on the application for retirement.

(b) With respect to a state member who retires or dies on or after July 1, 1991, and who was a managerial employee, as defined by subdivision (e) of Section 3513, or a supervisory employee, as defined by subdivision (g) of Section 3513, whose monthly salary range was administratively reduced by 5 percent because of the salary range reductions administratively imposed upon managers and supervisors during the 1991-92 fiscal year, "final compensation" means the highest annual compensation the state member would have earned had his or her salary range not been reduced by the 5-percent reduction. This subdivision shall only apply if the period during which the state member's salary was reduced would have otherwise been included in determining his or her final compensation. The costs, if any, that may result from the use of the higher final compensation shall be paid for by the employer in the same manner as other retirement benefits are funded.

(Added by Stats. 1990, Ch. 1251, effective 9/24/90; amended by Stats. 1992, Ch. 448, effective 8/6/92; by Stats. 1993, Ch. 589; and by Stats. 1994, Ch. 408; repealed and added by Stats. 1995, Ch. 379.)

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§ 20035.1. Repealed

(Repealed by Stats. 2007, Ch. 321.)

§ 20035.2. "Final Compensation"—Patrol Member after July 1, 2003

Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a patrol member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 5, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the patrol member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the patrol member' s salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(Added by Stats. 2003, Ch. 617; amended by Stats. 2004, Ch. 183.)

§ 20035.21. "Final Compensation"—Patrol Member after July 1, 2004

Notwithstanding Sections 20035 and 20037, "final compensation" for the purpose of determining any pension or benefit with respect to a patrol member who retires or dies on or after July 1, 2004, who was a member of State Bargaining Unit 5, and whose monthly salary range that was to be effective July 1, 2004, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2004-05 fiscal year, "final compensation" means the highest annual compensation the patrol member would have earned as of July 1, 2004, if that 5 percent reduction had not occurred. This section shall only apply if the period during which the patrol member's salary was reduced would have otherwise been included in determining his or her final compensation.

The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(Added by Stats. 2004, Ch. 635, effective 9/21/04.)

§ 20035.3. "Final Compensation"—State Member—Unit 8 after July 1, 2003

Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a state miscellaneous or peace officer/firefighter member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 8, and whose monthly

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salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(Added by Stats. 2003, Ch. 617; amended by Stats. 2004, Ch. 183.)

§ 20035.4. "Final Compensation"—State Member—Unit 16 after July 1, 2003

Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 16, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation.

The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(Added by Stats. 2003, Ch. 615; amended by Stats. 2004, Ch. 183.)

§ 20035.5. "Final Compensation"—One Year—School Member

Notwithstanding Section 20037, "final compensation" for the purposes of determining any pension or benefit with respect to a school member who retires or dies on or after January 1, 2000, and with respect to benefits based on service with a school employer, means the highest annual compensation that was earnable by the school member during the consecutive 12-month period of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from service if earlier or during any other period of 12 consecutive months during his or her membership in this system that the member designates on the application for retirement.

(Added by Stats. 1999, Ch. 555.)

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§ 20035.6. "Final Compensation"—State Member—Unit 19 after July 1, 2003

Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 19, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation.

The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(Added by Stats. 2003, Ch. 615; renumbered and amended by Stats. 2004, Ch. 231; amended by Stats. 2006, Ch. 538.)

§ 20035.9. "Final Compensation"—State Member—Units 1, 4, 10, 11, 14, 15, 17, 20, 21 after July 1, 2003

(a) Notwithstanding Sections 20035 and 20037, ''final compensation,'' for the purpose of determining any pension or benefit with respect to a state miscellaneous member (1) who retires or dies on or after July 1, 2003, (2) who was a member of a state bargaining unit listed in subdivision (b), and (3) whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered into during the 2003–04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5 percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of ''final compensation'' provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(b) The section shall apply with respect to members in State Bargaining Units 1, 4, 10, 11, 14, 15, 17, 20, and 21.

(Added by Stats. 2003, Ch. 615.)

§ 20035.10. "Final Compensation"—State Member—Unit 9 after July 1, 2003

(a) Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a state

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miscellaneous member (1) who retires or dies on or after July 1, 2003, (2) who was a member of the state bargaining unit listed in subdivision (b), and (3) whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered into during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation.

The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(b) This section shall apply with respect to members in State Bargaining Unit 9.

(Added by Stats. 2003, Ch. 616; amended by Stats. 2004, Ch. 183.)

§ 20035.11. "Final Compensation"—State Member—Supervisor or Manager Unit 9 or 10 between July 1, 2014 and June 30, 2016

(a) For purposes of this section, "pay letter" means the set of instructions issued by the Department of Human Resources to the Controller and other state agencies of approved changes to civil service pay scales that affect a supervisor or manager of State Bargaining Unit 9 or State Bargaining Unit 10 whose monthly salary is increased effective July 1, 2014, pursuant to this pay letter.

(b) A supervisor or manager of State Bargaining Unit 9 or State Bargaining Unit 10 to whom the pay letter applies and who retires or dies on or after July 1, 2014, shall, for purposes of determining any pension or benefit, have his or her final compensation pursuant to Section 7522.32, 20035, 20035.9, 20035.10, 20037, 20037.11, or 20037.15, modified as described in this section. Any salary increase as provided in the pay letter that exceeds 5 percent shall not be included in final pensionable compensation or compensation earnable for the member, except as follows:

(1) For July 1, 2014, to June 30, 2015, inclusive, only that portion of the salary increase representing up to 33 1/3 percent of the excess salary increase identified in the pay letter shall be recognized for purposes of determining his or her compensation earnable or pensionable compensation during the fiscal year period.

(2) For July 1, 2015, to June 30, 2016, inclusive, only that portion of the salary increase representing up to 66 2/3 percent of the excess salary increase identified in the pay letter shall be recognized for purposes of determining his or her compensation earnable or pensionable compensation during the fiscal year period.

(3) On and after July 1, 2016, the entire pay increase identified in the pay letter shall be recognized for purposes of determining his or her compensation earnable or pensionable compensation for service performed on or after that date.

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(c) A supervisor or manager of State Bargaining Unit 9 or State Bargaining Unit 10 shall pay employee retirement contributions on the full amount of the salary increase provided pursuant to the pay letter. A member that has his or her final compensation modified pursuant to subdivision (b) shall not be eligible for any refund of his or her employee retirement contributions associated with that salary increase unless he or she elects a full refund of his or her retirement contributions and ceases to be a member of the system.

(d) The increased costs, if any, that result from the administration of this section shall be paid by the employer.

(e) The Department of Human Resources shall identify the job classifications receiving salary increases in the pay letter. The Department of Human Resources and any department that employs the affected managers and supervisors shall provide the system and the Controller, upon request, any information necessary to implement this section. The Controller shall provide the system, upon request, any information necessary to implement this section.

(Added by Stats. 2014, Ch. 28, effective 6/20/2014.)

§ 20036. Final Compensation—Industrial Disability

In the computation of the disability retirement allowance payable upon the retirement of a member for industrial disability, final compensation shall be determined only with respect to compensation earnable in the membership category applicable to the member at the time of the injury or the onset of the disease causing the disability.

(Added by Stats. 1953, Ch. 1186; renumbered and amended by Stats. 1955, Ch. 1705, operative 10/1/55; repealed and added by Stats. 1995, Ch. 379.)

§ 20037. "Final Compensation"—Three Years—State or Local Member

For a state member, or for a local member who is an employee of a contracting agency that is subject to this section, "final compensation" means the highest average annual compensation earnable by a member during the three consecutive years of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier or during any other period of three consecutive years during his or her membership in this system which he or she designates in his or her application for retirement, including any or all of the period or periods of (a) service required for qualification for membership, or (b) prior service which qualifies for credit under this system, if any, immediately preceding membership, or (c) time prior to entering state service at the compensation earnable by him or her in the position first held by him or her in that service, as may be necessary to complete three consecutive years. For the purposes of this section, periods of service separated by a period of retirement or breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except

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for such a period of retirement or breaks. If a break in service did not exceed six months in duration, time included in the break and compensation earnable during that time shall be included in computation of final compensation. If a break in service exceeded six months in duration, the first six months thereof and the compensation earnable during those six months shall be included in computation of final compensation, but time included in the break which is in excess of six months and the compensation earnable during that excess time shall be excluded in computation of final compensation. On and after November 13, 1968, this section shall apply to all contracting agencies and to the employees of those agencies whether or not those agencies have previously elected to be subject to this section, except that this section shall not apply to an employee of a contracting agency which has not elected to be subject to this section whose death occurred or whose retirement was effective prior to November 13, 1968.

(Added by Stats. 1953, Ch. 1687; amended by Stats. 1955, Ch. 1705; by Stats. 1959, Ch.761; by Stats. 1968, Ch. 239 and Ch. 1201; by Stats. 1969, Ch. 991; by Stats. 1971, Ch. 76, operative 4/1/72; by Stats. 1978, Ch. 900; and by Stats. 1991, Ch. 778, effective 10/10/91; repealed and added by Stats. 1995, Ch. 379.)

§ 20037.5. "Final Compensation"—State Member—Modified First Tier

Notwithstanding Section 20035, "final compensation" for a state member who has elected to be subject to Section 21353.5, for the purposes of determining any pension or benefit based on service credited under that section, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(Added by Stats. 1998, Ch. 88, effective 6/30/98, and Ch. 91, effective 7/3/98.)

20037.6. "Final Compensation"—Three Years—Unit 2 hired after July 1, 2006

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after July 1, 2006, and is represented by State Bargaining Unit 2, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 2.

(c) This section does not apply to:

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(1) Former state employees who return to state employment on or after July 1, 2006.

(2) State employees hired prior to July 1, 2006, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to July 1, 2006, who become subject to representation by State Bargaining Unit 2 on or after July 1, 2006.

(4) State employees on an approved leave of absence who return to active employment on or after July 1, 2006.

(Added by Stats. 2006, Ch. 28, effective 5/18/06; amended by Stats. 2009, Ch. 130.)

20037.7. "Final Compensation"—Three Years—Units 1, 3, 4, 11, 14, 15, 17, 20, 21 hired after January 1, 2007

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

(Added by Stats. 2006, Ch. 209, effective 9/6/06; amended by Stats. 2007, Ch. 130; and by Stats. 2009, Ch. 130.)

20037.8 "Final Compensation"—Three Years—Units 12 and 13 hired after January 1, 2007

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining

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Unit 12 or 13, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 12 or 13.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 12 or 13 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

(Added by Stats. 2006, Ch. 210, effective 9/6/06; amended by Stats. 2009, Ch. 130.)

20037.9 "Final Compensation"—Three Years—Units 16 and 19 hired after January 1, 2007

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 16 or 19, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 16 or 19.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 16 or 19 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

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(Added by Stats. 2006, Ch. 237, effective 9/13/06; amended by Stats. 2009, Ch. 130.)

20037.10 "Final Compensation"—Three Years—Unit 7 hired after January 1, 2007

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 7, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 7.

(c) This section does not apply to:

(1) Service credit accrued while classified as a state peace officer/firefighter while a member of Bargaining Unit 7.

(2) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(3) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(4) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 7 on or after January 1, 2007.

(5) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

(Added by Stats. 2006, Ch. 239, effective 9/13/06; amended by Stats. 2009, Ch. 130.)

20037.11 "Final Compensation"—Three Years—Unit 10 hired after January 1, 2007

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 10, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 10.

(c) This section does not apply to:

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(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 10 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

(Added by Stats. 2006, Ch. 238, effective 9/13/06; amended by Stats. 2009, Ch. 130.)

20037.12 "Final Compensation"—Three Years—Unit 18 hired after January 1, 2007

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 18, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 18.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 18 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

(Added by Stats. 2006, Ch. 238, effective 9/13/06; amended by Stats. 2009, Ch. 130.)

§ 20037.13 "Final Compensation"—Three Years—Career Executive Assignments

(a) Notwithstanding Sections 20035 and 20037, for the purposes of determining any pension or benefit with respect to benefits based on service with the state, "final compensation" means the highest annual compensation that was earnable by the state member during the consecutive 36-month period of employment immediately preceding the effective date of his or her retirement or

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the date of his or her last separation from state service or during any other period of 36 consecutive months during his or her membership in this system that the member designates on the application for retirement.

(b) This section shall only apply to a member appointed to a career executive assignment, as defined in Section 18546, who at the time of appointment meets one or more of the following criteria:

(1) He or she previously had, but does not currently have, permanent status in the civil service.

(2) He or she is a person described in Section 18990 who was not, within the past 12 months, employed by the Legislature for two or more consecutive years.

(3) He or she is a person described in Sections 18992 who was not, within the past 12 months, holding a nonelected exempt position in the executive branch.

(c) A state entity that employs a person described in subdivision (b) in a career executive assignment shall notify the Controller of this person's employment status and the Controller shall forward this information to the system.

(Added by Stats. 2008, Ch. 353.)

§ 20037.14 Final Compensation Three Years—Units 5 & 8 Hired After October 30, 2010

(a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 5 or 8 or in a class related to State Bargaining Unit 5 or 8 as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(c) This section does not apply to:

(1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

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(Added by Stats. 2010, Ch. 162 and Ch. 163, effective 8/23/10, operative 8/31/10; amended by Stats. 2011, Ch. 296.)

§ 20037.15 Final Compensations Three Years—Units 6, 7 & 9 Hired After January 14, 2011

(a) Notwithstanding Sections 3517.8, 20035, and 20037, final compensation for a person who is employed for the first time and becomes a member of the system on or after January 15, 2011, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to the following:

(1) Service credit accrued while a member of State Bargaining Unit 6 or 9 or in a class related to State Bargaining Unit 6 or 9 as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(2) Service credit accrued while a peace officer/firefighter member represented by State Bargaining Unit 7 or in a class related to peace officer/firefighter members in State Bargaining Unit 7 as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(3) Service credit accrued as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(4) Service credit accrued as an employee of the Legislature, the judicial branch, or the California State University.

(c) This section does not apply to:

(1) Former employees previously employed before January 15, 2011, who return to employment on or after January 15, 2011, and who were previously subject to a 12-month average.

(2) State employees hired prior to January 15, 2011, who were subject to Section 20281.5 during the first 24 months of state employment, and who were previously subject to a 12-month average.

(3) State employees hired prior to January 15, 2011, who become subject to representation by State Bargaining Unit 6, 7, or 9 on or after January 15, 2011, and who were previously subject to a 12-month average.

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(4) Employees on an approved leave of absence employed before January 15, 2011, who return to active employment on or after January 15, 2011, and who were previously subject to a 12-month average.

(d) If this section is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(Added by Stats. 2010, Ch. 3, effective 1/15/2011.)

§ 20039. "Final Compensation"—Local Official

Notwithstanding any other provision of this part, "final compensation" of a local member for the purpose of determining any pension or benefit resulting from state service as an elective or appointed officer on a city council or a county board of supervisors accrued while in membership pursuant to Section 20322, shall be based on the highest average annual compensation earnable by the member during the period of state service in each elective or appointed office. Where that elective or appointed service is a consideration in the computation of any pension or benefit, the member may have more than one final compensation.

This section shall apply to a local member first elected or appointed to a city council or a county board of supervisors on or after July 1, 1994, or elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994.

(Added by Stats. 1993, Ch. 1297, operative 7/1/94; repealed and added by Stats. 1995, Ch. 379.)

20039.5. "Final Compensation"—National Guard Member

Notwithstanding Article 5 (commencing with Section 20350) of Chapter 3, or any other provision of this part, "final compensation" for the purposes of determining any pension or benefit for service with the California National Guard with respect to a National Guard member means the highest average annual compensation that was earned during a consecutive 12-month period while rendering service with the California National Guard. The final compensation of a National Guard member under another retirement or pension system shall not apply to the calculation of his or her retirement allowance with respect to service with the California National Guard.

(Added by Stats. 2007, Ch. 355; amended by Stats. 2009, Ch. 130.)

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§ 20040. "Final Compensation"—Second Tier

Notwithstanding any other provision of this part, "final compensation," for the purposes of determining any benefits payable under this part for coverage under the Second Tier, shall not be reduced by any fraction or amount for any member included in the federal system.

(Added by Stats. 1988, Ch. 331, effective 7/14/88; repealed and added by Stats. 1995, Ch. 379.)

§ 20041. Repealed

(Repealed by Stats. 2009, Ch. 130.)

§ 20042. "Final Compensation"—One Year—Local Member

On the election of a contracting agency, other than a county superintendent of schools with respect to a contract under Chapter 6 (commencing with Section 20610), "final compensation" for a local member employed by that agency whose retirement is effective or whose death occurs after the date of the election and with respect to benefits based on service to the agency shall be computed under Section 20037 but with the substitution of the period of one year for three consecutive years. An election under this section shall be made by amendment to the contracting agency's contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or by express provision of the contract if exercised at the time of approval of a contract.

(Added by Stats. 1974, Ch. 195; repealed and added by Stats. 1995, Ch. 379.)

§ 20043. Repealed

(Repealed by Stats. 2009, Ch. 130.)

§ 20044. "Fiscal Year"

"Fiscal year" is any year commencing on July 1st and ending with June 30th next following.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20045. "Highway Patrol Service"

"Highway patrol service" means service rendered as a member of the California Highway Patrol, only while the member is receiving compensation from the state for that service, except as provided in Article 4 (commencing with Section 20990) of Chapter 11.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1984, Ch. 144; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

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§ 20046. "Industrial" Death or Disability

"Industrial," in reference to the death or disability of any member of this system who is in a membership category under which special benefits are provided by this part because the death or disability is industrial, means disability or death as a result of injury or disease arising out of and in the course of his or her employment as such a member.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186; and by Stats. 1971, Ch. 319; repealed and added by Stats. 1995, Ch. 379.)

§ 20046.5. "Industrial"—Specified State Miscellaneous Members—Beginning January 1995

"Industrial" with respect to state miscellaneous members also means death or disability on or after January 1, 1995, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of State Hospitals at Metropolitan State Hospital or Napa State Hospital if:

(a) The member was performing his or her duties within a treatment ward at the time of the injury, or

(b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients, and

(c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or

(d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

(Added by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 2012, Ch. 440.)

§ 20047. "Industrial"—Specified State Miscellaneous Members—Beginning January 1993

"Industrial" with respect to state miscellaneous members also means death or disability after January 1, 1993, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of State Hospitals at Patton State Hospital or Atascadero State Hospital, an inmate at the State Department of State Hospitals Psychiatric Program at California Medical Facility at Vacaville, or a patient at any other state hospital which is deemed a forensic facility if:

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(a) The member was performing his or her duties within a treatment ward at the time of the injury, or

(b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients, and

(c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or

(d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

(Added by Stats. 1992, Ch. 103, effective 6/30/92; amended by Stats. 1994, Ch. 889; by Stats. 1995, Ch. 850; and amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 2012, Ch. 440.)

§ 20047.5. "Industrial"—Specified State Miscellaneous Members—Beginning January 2002

"Industrial," with respect to state miscellaneous members, means death or disability on or after January 1, 2002, or the date agreed to in the memorandum of understanding between the state employer and the recognized employee organization, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of Developmental Services, at Porterville Developmental Center, Canyon Springs Community Facility, or Sierra Vista Community Facility, if both of the following apply:

(a) The member either (1) was performing his or her duties within a treatment ward at the time of the injury, or (2) was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients.

(b) The member, at the time of injury, was either (1) employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, (2) excluded from the definition of "state employee" in subdivision (c) of Section 3513, or (3) a non-elected officer or employee of the executive branch of government who was not a member of the civil service.

(Added by Stats. 2001, Ch. 365, effective 9/27/01; amended by Stats. 2006, Ch. 238, effective 9/13/06.)

§ 20048. "Industrial"—State Industrial Members

"Industrial," with respect to state industrial members, means death or disability resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by an inmate of a state prison, correctional school or facility of

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the Department of Corrections or the Department of the Youth Authority, or a parolee therefrom, if:

(a) The member was performing his or her duties within the prison, correctional school or facility of the Department of Corrections or the Department of the Youth Authority.

(b) The member was not within the prison, correctional school or facility of the Department of Corrections or the Department of the Youth Authority, but was acting within the scope of his or her employment and is regularly and substantially as part of his or her duties in contact with those inmates or parolees.

(Added by Stats. 1974, Ch. 1439; repealed and added by Stats. 1995, Ch. 379.)

§ 20049. "Labor Policy or Agreement"

"Labor policy or agreement" means any written policy, agreement, memorandum of understanding, legislative action of the elected or appointed body governing the employer, or any other document used by the employer to specify the payrate, special compensation, and benefits of represented and unrepresented employees.

(Added by Stats. 1993, Ch. 1297, operative 7/1/94; renumbered by Stats. 1995, Ch. 379.)

§ 20050. "Local Safety Service"

"Local safety service" means state service rendered as a local firefighter, local police officer, county peace officer, local safety officer, or positions defined as local safety member in Sections 20421 and 20422 except as provided in Article 1 (commencing with Section 20890) and Article 4 (commencing with Section 20990) of Chapter 11.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 597; by Stats. 1979, Ch. 240; and by Stats. 1987, Ch. 1164; renumbered by Stats. 1995, Ch. 379.)

§ 20051. "Month"

"Month," except as otherwise expressly provided, means a period commencing on any day of a calendar month and extending through the day preceding the corresponding day of the succeeding calendar month, if there is any corresponding day, and if not, through the last day of the succeeding calendar month.

(Added by Stats. 1953, Ch. 1186; renumbered by Stats. 1995, Ch. 379.)

§ 20052. "Net Earnings"

"Net earnings" means the earnings of the retirement fund less the amounts specified in Sections 20173 and 20174.

(Added by Stats. 1982, Ch. 330, effective 6/30/82, operative 1/1/83; renumbered by Stats. 1995, Ch. 379.)

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§ 20053. "Normal Contributions"

"Normal contributions" means contributions required to be paid by a member at the normal rates of contribution fixed by the law, by contract, or by contract amendment, but does not include additional contributions.

"Normal contributions" also includes contributions required to be paid by a member that are in fact paid on behalf of a member by an employer as defined in Section 20030.

(Amended by Stats. 1978, Ch. 1180, effective 9/26/78; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1980, Ch. 1168, effective 9/29/80; by Stats. 1982, Ch. 21; and by Stats. 1991, Ch. 778, effective 10/10/91; renumbered by Stats. 1995, Ch. 379.)

§ 20054. "Pension"

"Pension" means payments for life derived from contributions made from employer controlled funds.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20055. "Prior Service"

(a) "Prior service" as applied to a state member who while employed on a part-time basis became a member because of amendments of the laws governing this system or because of a change in his or her employment status to at least a half-time basis, means all state service rendered by him or her prior to the time he or she became a member.

(b) As applied to other members, "prior service" means all state service rendered by:

(1) A university member prior to August 27, 1937.

(2) A state member other than a university member, prior to January 1, 1932.

(3) A local member or school member prior to the effective date of the contract under which he or she became a member.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; renumbered by Stats. 1995, Ch. 379.)

§ 20056. "Public Agency"—General

"Public agency" means any city, county, district, other local authority or public body of or within this state.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20057. "Public Agency"—Various

"Public agency" also includes the following:

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(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of Division 8 of Title 3 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this system or the State Teachers' Retirement Plan, and their immediate families, and employees of any credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this system or the State Teachers' Retirement Plan. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union is not deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board may not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local policemen, as defined in Section 20430, on July 1, 1983.

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(i) Any school district or community college district that has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(l) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.

(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal Public Law 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

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(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.

(2) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the independent living center.

(3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

(q) The Tahoe Transportation District that is established by Article IX of Section 66801.

(r) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(s) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

(t) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a "public agency" only for this purpose.

(u) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The auxiliary organization is a "public agency" only for this purpose.

(v) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a "public agency" only for this purpose.

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(w) The State Assistance Fund for Enterprise, Business, and Industrial Development Corporation upon obtaining a written opinion from the United States Department of Labor as described in Section 20057.1.

(x) (1) A private nonprofit area agency on aging as described in Section 9006 of the Welfare and Institutions Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(2) The area agency on aging shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the agency.

(3) Notwithstanding any other provision of this part, the area agency on aging may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(y) (1) A nonprofit mutual water company operating pursuant to Chapter 1 (commencing with Section 14300) of Part 7 of Division 3 of Title 1 of the Corporations Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1, if both of the following requirements are satisfied:

(A) More than 50 percent of the company's shares are owned by a municipality.

(B) The governing body of the company is a local public agency, as defined in Section 6252, and a legislative body, as defined in Section 54952.

(2) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" only for the purposes of this part and only with respect to the employees of the agency.

(3) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" for purposes of this part only if it complies with the provisions of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

(Added by Stats. 1945, Ch. 1224; amended by Stats. 1947, Ch. 273 and Ch. 1496; repealed and added by Stats. 1957, Ch. 247; amended by Stats. 1959, Ch. 782 and Ch. 2000; by Stats. 1968, Ch. 703, Ch. 901 and Ch. 1261; by Stats. 1972, Ch. 293; by Stats. 1974, Ch. 48 and Ch. 1336; by Stats. 1975, Ch. 623; by Stats. 1976, Ch. 300; by Stats. 1977, Ch. 213, Ch. 729 and Ch. 1225; by Stats. 1978, Ch. 1180, effective 9/26/78; and Ch. 1191; by Stats. 1979, Ch. 103, Ch. 373 and Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1980, Ch. 676; by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; by Stats. 1983, Ch. 78, effective and operative 9/14/83; by Stats. 1984, Ch. 771; by Stats. 1986, Ch. 484 and Ch. 981; by Stats. 1987, Ch. 562; by Stats. 1989, Ch. 1143; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1991, Ch. 404 and Ch. 414; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 961; by Stats. 1997, Ch. 304; by Stats. 2000, Ch. 357; by Stats. 2003, Ch. 62 and Ch. 519; by Stats. 2004, Ch. 25, effective 3/17/04; Stats. 2006, Ch. 307; and by Stats. 2008, Ch. 191.)

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§ 20057.1. "Public Agency"—Advisory Opinion Required

To qualify as a "public agency" within the meaning of this part, any organization that qualifies under amendments to the definitions of "public agency" effective on or after January 1, 2002, shall also obtain a written advisory opinion from the United States Department of Labor stating that the organization is an agency or instrumentality of the state or a political subdivision thereof within the meaning of Sections 1001 et seq. of Title 29 of the United States Code.

(Added by Stats. 1998, Ch. 678; amended by Stats. 2001, Ch. 793.)

§ 20058. "Retirement System" or "This System"

(a) "Retirement system" or "this system" means the Public Employees' Retirement System.

(b) As used in this code and in every other statute heretofore or hereafter enacted, or in every contract heretofore or hereafter entered into under any provisions of law, the term "State Employees' Retirement Law" shall be construed to refer to and mean the "Public Employees' Retirement Law"; the term "State Employees' Retirement System" shall be construed to refer to and mean the "Public Employees' Retirement System"; and the term "State Employees' Retirement Fund" shall be construed to refer to and mean the "Public Employees' Retirement Fund."

(Added by Stats. 1945, Ch. 123; amended by Stats. 1967, Ch. 84 and Ch. 1631, operative 7/1/68; renumbered by Stats. 1995, Ch. 379.)

§ 20059. "Regular Interest"

"Regular interest" means interest at the annual interest rate for purposes of crediting of interest, compounded annually.

(Amended by Stats. 1967, Ch. 1352; by Stats. 1991, Ch. 83, effective 6/30/91; and by Stats. 1993, Ch. 1168; renumbered by Stats. 1995, Ch. 379.)

§ 20060. "Retirement"

"Retirement" means the granting of a retirement allowance under this part.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; renumbered by Stats. 1995, Ch. 379.)

§ 20061. "Retirement Allowance"

"Retirement allowance" means the service retirement allowance or the disability retirement allowance.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

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§ 20062. "Retirement Fund"

"Retirement fund" means the Public Employees' Retirement Fund continued in existence by this part.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1967, Ch. 84; renumbered by Stats. 1995, Ch. 379.)

§ 20062.5. "Risk Pool"

"Risk pool" means the combination of assets and liabilities with respect to one or more contracting agencies for the purpose of pooling actuarial experience and setting the employer contribution rates pursuant to Section 20840.

(Added by Stats. 2002, Ch. 1133.)

§ 20063. "School Employer"

(a) "School employer" means a county superintendent of schools, other than the Los Angeles County Superintendent of Schools and the San Diego County Superintendent of Schools, that has entered into a contract with the board pursuant to Chapter 6 (commencing with Section 20610) and any school district or community college district that was a contracting agency on July 1, 1983, excluding that portion of a contract with the Los Angeles City Unified School District and the Los Angeles Community College District that pertains to local police officers, as defined in Section 20430, on July 1, 1983, and excluding a school district or a community college district, as defined in subdivision (i) of Section 20057, that entered into a contract with the board on or after January 1, 1990, and whose employees are school safety members, as defined in Section 20444.

(b) Notwithstanding subdivision (a), "school employer" may not include any county office of education, school district, or community college district that participates in a risk pool.

(Added by Stats. 1979, Ch. 1201; repealed and added by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; amended by Stats. 1984, Ch. 144; by Stats. 1989, Ch. 404; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 1133.)

§ 20064. "School Safety Service"

"School safety service" includes service rendered as a school safety member in employment with a school district or community college district, as defined in subdivision (i) of Section 20057.

(Added by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379.)

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§ 20065. "Serving on a Part-Time Basis"

An employee is "serving on a part-time basis" when he or she engages in his or her duties for less time than is required of employees serving on a full-time basis, even though he or she is subject to call at any time.

(Added by Stats. 1945, Ch. 1224; renumbered by Stats. 1995, Ch. 379.)

§ 20065.5. "Spouse"—Domestic Partnership

All references to "spouse," "surviving spouse," or "marriage" in this part apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

(Added by Stats. 2012, Ch. 833.)

§ 20066. "State Peace Officer/Firefighter Service"

"State peace officer/firefighter service" means service rendered as a state peace officer/firefighter member only while receiving compensation for that service, except as provided in Article 4 (commencing with Section 20990) of Chapter 11. It also includes service rendered in an employment in which persons have since become state peace officer/firefighter members.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 20067. "State Peace Officer/Firefighter Service"—CSU Employees

"State peace officer/firefighter service," with respect to a member who becomes a state peace officer/firefighter member pursuant to Section 20394, also includes service prior to July 1, 1986, as an employee of the California State University.

(Added by Stats. 1986, Ch. 234, effective 7/2/86; renumbered by Stats. 1995, Ch. 379.)

§ 20068. "State Safety Service"

(a) "State safety service" means service rendered as a state safety member only while receiving compensation for that service, except as provided in Article 4 (commencing with Section 20990) of Chapter 11. It also includes service rendered in an employment in which persons have since become state safety members and service rendered prior to April 1, 1973, and falling within the definition of warden, forestry, and law enforcement service under this chapter prior to April 1, 1973. "State safety service" pursuant to this subdivision does not include service as an investigator prior to April 1, 1973, within the Department of Justice of persons who prior to April 1, 1973, were classed as miscellaneous members.

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(b) "State safety service" with respect to a member who becomes a state safety member pursuant to Section 20405 shall also include service prior to the date on which he or she becomes a state safety member as an officer or employee of the Department of Corrections and Rehabilitation.

(c) "State safety service" with respect to a member who becomes a state safety member pursuant to Sections 20409 and 20410 shall also include service in a class specified in these sections or service pursuant to subdivision (a), prior to September 27, 1982.

(d) "State safety service," with respect to a member who becomes a state safety member pursuant to Sections 20414 and 20415, shall also include service prior to September 22, 1982, as an officer or employee of the Department of Parks and Recreation or the Military Department.

(e) "State safety service" does not include service in classes specified in Section 20407 prior to January 1, 1989.

(f) "State safety service" does not include service in classes specified in Section 20408 prior to January 1, 1990.

(g) "State safety service," with respect to a member who becomes a state safety member pursuant to subdivision (b) of Section 20405.1, shall also include service rendered in an employment in which persons have since become state safety members, as determined by the Department of Human Resources pursuant to that section.

(Added by Stats. 1963, Ch. 2031; amended by Stats. 1970, Ch. 1600; by Stats. 1972, Ch. 1098, operative 4/1/73; by Stats. 1976, Ch. 24 and Ch. 911; by Stats. 1977, Ch. 1069; repealed by Stats. 1978, Ch. 786, effective 9/18/78; added by Stats. 1982, Ch. 1220, effective 9/22/82, and Ch. 1425, effective 9/27/82; amended by Stats. 1984, Ch. 144; by Stats. 1988, Ch. 938; and by Stats. 1989, Ch. 962 and Ch. 1143; added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 1998, Ch. 88, effective 6/30/98; amended by Stats. 2012, Ch. 665.)

§ 20068.2. Repealed

(Repealed by Stats. 1999, Ch. 457, effective 9/21/99.)

§ 20069. "State Service"

(a) "State service" means service rendered as an employee or officer (employed, appointed, or elected) of the state, the California Institute for Regenerative Medicine and the officers and employees of its governing body, the university, a school employer, or a contracting agency, for compensation, and only while he or she is receiving compensation from that employer therefor, except as provided in Article 4 (commencing with Section 20990) of Chapter 11.

(b) "State service," solely for purposes of qualification for benefits and retirement allowances under this system, shall also include service rendered as an

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officer or employee of a county if the salary for the service constitutes compensation earnable by a member of this system under Section 20638.

(c) "State service," except for purposes of qualification for health or dental benefits, shall also include compensated service rendered by an officer, warrant officer, or a person of the enlisted ranks of the California National Guard who has elected to become a member pursuant to Section 20326 and who has not canceled his or her membership pursuant to Section 20327.

(Added by Stats. 1945, Ch. 123 and Stats. 1957, Ch. 2399, effective 10/1/57; amended by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; and by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2007, Ch. 355; and by Stats. 2009, Ch. 130.)

§ 20069.1. "Trial Court"

"Trial court" shall have the same meaning as the term is defined in the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8).

(Added by Stats. 2000, Ch. 1010.)

§ 20070. "1959 Survivor Allowance"

"1959 survivor allowance" means the allowance provided for in Sections 21571, 21572, 21573, 21574, 21574.5, and 21574.7.

(Added by Stats. 1959, Ch. 2066 and Ch. 2067. Section, as added by Stats. 1959, Ch. 2067, repealed by Stats. 1961, Ch. 84; amended by Stats. 1977, Ch. 70; by Stats. 1980, Ch. 316, effective 7/3/80; and by Stats. 1985, Ch. 176, effective 7/8/85; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 20071. "University"

"University" means the University of California and includes The Regents of the University of California as defined and authorized by Section 9 of Article IX of the California Constitution.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 3. PENALTIES

§ 20085. Definition of Fraud and Penalties

(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 administered by this system.

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(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 administered by this system.

(3) Knowingly accept or obtain payment from this system with knowledge that the recipient is not entitled to the payment under the provisions of this part 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 administered by this system.

(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 this 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.)

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ARTICLE 1. THE BOARD OF ADMINISTRATION

§ 20090. Composition and Continuation of Board

The Board of Administration of the Public Employees' Retirement System is continued in existence. It consists of:

(a) One member of the State Personnel Board, selected by and serving at the pleasure of the State Personnel Board.

(b) The Director of Human Resources.

(c) The Controller.

(d) The Treasurer.

(e) An official of a life insurer and an elected official of a contracting agency, appointed by the Governor.

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(f) One person representing the public, appointed jointly by the Speaker of the Assembly and the Senate Committee on Rules.

(g) Six members elected under the supervision of the board as follows:

(1) Two members elected by the members of this system from the membership thereof.

(2) A member elected by the active state members of this system from the state membership thereof.

(3) A member elected by and from the active local members of this system who are employees of a school district or a county superintendent of schools.

(4) A member elected by and from the active local members of this system other than those who are employees of a school district or a county superintendent of schools.

(5) A member elected by and from the retired members of this system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1955, Ch. 1353; by Stats. 1961, Ch. 1236; by Stats. 1971, Ch. 1086; by Stats. 1974, Ch. 197; by Stats. 1975, Ch. 1182; and by Stats. 1980, Ch. 1102; repealed and added by Stats. 1983, 1st Ex. Sess., Ch. 5, effective 10/18/83, operative 1/16/84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2012, Ch. 665.)

§ 20090.1. Authorized Designees

(a) Notwithstanding any other provision of law to the contrary, the member of the board who is an elected official of a contracting agency appointed by the Governor, pursuant to subdivision (e) of Section 20090, may designate a deputy, who is employed under the official's authority, to act in his or her place and stead on the board or any of its committees. The deputy, while sitting on the board or any of its committees, may exercise the same powers that the elected official could exercise if he or she were personally present. The elected official shall be responsible for the acts of the deputy acting under this designation.

(b) Notwithstanding any other provision of law to the contrary, the Director of Human Resources may designate a deputy, who is employed under the director's authority, to act in his or her place and stead on the board or any of its committees. The deputy, while sitting on the board or any of its committees, may exercise the same powers that the director could exercise if he or she were personally present. The director shall be responsible for the acts of the deputy acting under this designation.

(Added by Stats. 2002, Ch. 729; amended by Stats. 2003, Ch. 371; and by Stats. 2012, Ch. 665.)

§ 20091. Members of Board

The members of the board appointed by the Governor pursuant to subdivision (e) of Section 20090, the public member appointed jointly by the Senate Committee on Rules and the Speaker of the Assembly pursuant to subdivision (f)

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of Section 20090, and any retired person serving on the board pursuant to subdivision (g) of Section 20090 shall receive one hundred dollars ($100) for every day or portion thereof of actual attendance at meetings of the board or any meeting of any committee of the board of which committee the person is a member and which meeting is conducted for the purpose of carrying out the powers and duties of the board, together with their necessary traveling expenses incurred in connection with performance of their official duties.

(Amended by Stats. 1955, Ch. 1356; by Stats. 1961, Ch. 1236; by Stats. 1971, Ch. 1086; by Stats. 1974, Ch. 197; by Stats. 1975, Ch. 1182; by Stats. 1980, Ch. 1102; by Stats. 1981, Ch. 388; and by Stats. 1984, Ch. 110, effective 5/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 20092. Reimbursement for Replacement of Member

Each employing agency that employs an elected member of the board shall be reimbursed by the retirement fund in an amount equal to the salary and benefits paid to the elected board member by the employing agency for the percentage of the elected board member's regular work schedule during which the elected board member is on leave from the employing agency to attend meetings or activities of the board, or meetings of committees or subcommittees of the board, or when serving as president or vice president of the board or chair or vice chair of a committee or subcommittee of the board, or when carrying out other powers or duties as may be approved by the board, or to otherwise fulfill his or her responsibilities to the system.

(Added by Stats. 1985, Ch. 1114; amended by Stats. 1989, Ch. 1464, effective 10/2/89; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 850; and by Stats. 2013, Ch. 778.)

§ 20093. Reimbursement of Members for Expenses

The members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred through service on the board.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20094. Notice of Gift Provisions

The counsel to the board shall notify each new member of the board upon his or her assumption of office and each member of the board annually that he or she is subject to the gift provisions of Chapter 9.5 (commencing with Section 89500) of Title 9.

(Added by Stats. 1991, Ch. 1153; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 538.)

§ 20095. Term of Office of Members

The term of office of members of the board is four years expiring on January 15 in the order fixed by law. The board shall hold special elections to fill vacancies which occur during the term of elected members of the board. If at the time a vacancy occurs, the unexpired term is less than two years, the new member elected to fill that vacancy shall hold office for a period equal to the remainder of the term of the vacated office plus four years.

The Governor or the Speaker of the Assembly and the Senate Committee on Rules, as the case may be, shall fill a vacancy of a member appointed pursuant to subdivision (e) or (f) of Section 20090 by the appointment of a person having the requisite qualifications for the remainder of the vacated term of office.

Notwithstanding any other provision of this part, any person elected to the board under Section 20090 shall be entitled to hold that office until the end of the term.

(Added by Stats. 1955, Ch. 1353; amended by Stats. 1963, Ch. 365; by Stats. 1968, Ch. 333; by Stats. 1971, Ch. 1086; by Stats. 1972, Ch. 590; by Stats. 1974, Ch. 197 and Ch. 470, effective 7/11/74, operative 1/1/75; and by Stats. 1975, Ch. 1182; repealed and added by Stats. 1980, Ch. 1102; amended by Stats. 1984, Ch. 110, effective 5/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 20096. Board Member Elections

The board shall cause ballots to be distributed to each active and retired member of the system in advance of each election, and shall provide for the return of the voted ballots to the board without cost to the member, and shall develop election procedures. The results shall be certified by the Secretary of State. The board may require all persons who perform election duties to certify, under penalty of perjury, that they properly performed those duties.

(Amended by Stats. 1955, Ch. 1631; by Stats. 1980, Ch. 1102; by Stats. 1982, Ch. 962 and Ch. 1220, effective and operative 9/22/82; and by Stats. 1983, Ch. 338; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 724.)

§ 20096.3. Extended Election Filing Deadline

If an incumbent member of the board, holding a board seat described in subdivision (g) of Section 20090, does not deliver his or her completed nomination documents to the election coordinator for reelection by the applicable filing deadline for candidates for the seat, any otherwise eligible person other than the person who was the incumbent on the filing deadline shall have until 10 days after the filing deadline to file nomination documents for the same office. This section is not applicable if there is no incumbent eligible to be elected or if the notice of election states that the incumbent does not intend to be a candidate for reelection.

(Added by Stats. 2002, Ch. 1139.)

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§ 20096.5. Board Candidate Campaign Statements

Candidates for board seats described in subdivision (g) of Section 20090, including incumbent board members running for reelection, shall file campaign statements with the Secretary of State and the board pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of Title 9

(Added by Stats. 1998, Ch. 923; amended by 2011, Ch. 440.)

§ 20097. Board Office; Quorum; President

The board shall maintain its office in the City of Sacramento. A quorum of the board is seven members. The board shall elect a president from its membership.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1963, Ch. 365; by Stats. 1977, Ch. 766; and by Stats. 1984, Ch. 110, effective 5/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 20098. Compensation of Officers and Employees

(a) The board shall appoint and, notwithstanding Sections 19816, 19825, 19826, 19829, and 19832 shall fix the compensation of an executive officer, a general counsel, a chief actuary, a chief investment officer, a chief financial officer, and other investment officers and portfolio managers whose positions are designated managerial pursuant to Section 18801.1.

(b) The executive officer, deputy executive officers, and the assistant executive officers may administer oaths.

(c) When fixing the compensation for the positions specified in subdivision (a), the board shall be guided by the principles contained in Sections 19826 and 19829, consistent with its fiduciary responsibility to its members to recruit and retain highly qualified and effective employees for these positions.

(d) When a position specified in subdivision (a) is filled through a general civil service appointment, it shall be filled from an eligible list based on an examination that was held on an open basis, and tenure in the position shall be subject to the provisions of Article 2 (commencing with Section 19590) of Chapter 7 of Part 2 of Division 5 of Title 2. In addition to the causes for action specified in that article, the board may take action under the article for causes related to its fiduciary responsibility to its members, including the employee's failure to meet specified performance objectives.

(e) An individual who held a position designated in subdivision (a), or was a member of the board, a deputy executive officer, or an assistant executive officer, 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 state, by making any formal or informal appearance before, or any oral or written communication to, the Public Employees' Retirement System, or any officer or employee thereof, if the appearance or communication is made for the purpose of

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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. 1945, Ch. 123; amended by Stats. 1947, Ch. 206; by Stats. 1951, Ch. 612; and by Stats. 1973, Ch. 389; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 856; by Stats. 2005, Ch. 328; by Stats. 2007, Ch. 333; by Stats. 2009, Ch. 301; and by Stats. 2011, Ch. 688.)

§ 20099. Appointment of Committee; Delegation of Authority

The board may appoint a committee of one or more of its members to perform any act within the power of the board itself to perform. The board may also delegate authority to the executive officer to perform those acts. Except where the board, in delegating authority to a committee or the executive officer, provides that the committee or the executive officer may act finally, all acts of the committee or the executive officer shall be reported to the board, at its next regular meeting, and shall be subject to review and ratification or reversal by the board.

Reversal by the board of any act of the committee or the executive officer shall be effective as of the date fixed by the board, but payment of benefits prior to board action shall not be affected by that action, except for such recovery of amounts paid from the person to whom they were paid as the board may direct.

The executive officer may delegate to his or her subordinates any act or duty unless the board by motion or resolution recorded in the minutes has required him or her to act personally.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612; and by Stats. 1957, Ch. 936, operative 10/1/57; renumbered by Stats. 1995, Ch. 379.)

§ 20100. Board Member Education Policy

The board shall adopt a policy for providing education to board members. The policy, at a minimum, shall do the following:

(a) Identify appropriate topics for board member education, which may include, but are not limited to, the following:

(1) Fiduciary responsibilities.
(2) Ethics.
(3) Pension fund investments and investment program management.
(4) Actuarial matters.
(5) Pension funding.
(6) Benefits administration.
(7) Disability evaluation.
(8) Fair hearings.
(9) Pension fund governance.

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(10) New board member orientation.

(b) Establish a means for determining the programs, training, and educational sessions that qualify as board member education.

(c) Require that all board members receive a minimum of 24 hours of board member education within the first two years of assuming office and for every subsequent two-year period the board member continues to hold membership on the board.

(d) Require the board to maintain a record of board member compliance with the policy. The policy and an annual report on board member compliance shall be placed on the system's Internet Web site.

(Added by Stats. 2014, Ch. 140.)

ARTICLE 2. POWERS AND DUTIES OF THE BOARD

§ 20120. Management and Control of System

The management and control of this system is vested in the board.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20121. Rules

The board may make such rules as it deems proper.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20122. Applicability of Part and Rules

Each member and each person retired is subject to this part and the rules adopted by the board.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20123. Determination and Modification of Benefits

Subject to this part and its rules, the board shall determine and may modify benefits for service and disability.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20124. Adjustment of Benefits

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 Title 26 of the United States 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.

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(Added by Stats. 1990, Ch. 798, effective 9/11/90; repealed and added by Stats. 1995, Ch. 379.)

§ 20125. Determination of Recipients

The board shall determine who are employees and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1955, Ch. 1817; and by Stats. 1969, Ch. 1226, operative 12/1/69; repealed and added by Stats. 1995, Ch. 379.)

§ 20126. Refusal to Admit Liability

Refusal by this system to admit liability pursuant to any provision of this part shall not be considered arbitrary or capricious action or conduct within the meaning of Section 800, or any other provision of law.

(Added by Stats. 1982, Ch. 77, effective and operative 3/1/82; repealed and added by Stats. 1995, Ch. 379.)

§ 20127. Evidence of Entitlement Under Federal System

The board may require a member to provide evidence of his or her entitlement to benefits under the federal system.

(Added by Stats. 1959, Ch. 2066, effective 7/20/59; repealed and added by Stats. 1995, Ch. 379.)

§ 20128. Information To Be Provided

Notwithstanding any other provision of law, the board may require a member or beneficiary to provide information it deems necessary to determine this system's liability with respect to, and an individual's entitlement to, benefits prescribed by this part.

(Added by Stats. 1977, Ch. 368, effective 8/24/77; renumbered by Stats. 1995, Ch. 379.)

§ 20129. Medical Service or Advice

The board shall secure and pay reasonable compensation for medical service and advice necessary to discharge its duties respecting matters involving disability or death, or both.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; repealed and added by Stats. 1995, Ch. 379.)

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§ 20130. Representation of Board in Proceedings

The board may enter into an agreement with the State Compensation Insurance Fund under which the latter shall represent this system, as its agent, or the Attorney General under which the latter shall represent this system, in proceedings instituted or to be instituted before the Workers' Compensation Appeals Board as may be referred to it by the board to determine whether the death or disability of a member is industrial. The agreed cost of this service and the expenses incidental thereto shall be paid from the retirement fund, except that there shall be no charge to this system by the Attorney General in cases involving members of this system who are employees of the General Fund state agencies.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 1215; by Stats. 1973, Ch. 389; and by Stats. 1987, Ch. 56; repealed and added by Stats. 1995, Ch. 379.)

§ 20131. Actuarial Valuation Data

The board shall keep in convenient form data necessary for the actuarial valuation of this system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 1140; by Stats. 1959, Ch. 2066, effective 7/20/59; and by Stats. 1991, Ch. 83, effective 6/30/91; renumbered by Stats. 1995, Ch. 379.)

§ 20132. Actuarial Tables and Rates; Change in Interest Rate

(a) Upon the basis of any investigation, valuation, or determination, or all of these, the board shall adopt mortality, service and other tables and annual and actuarial interest rates it deems necessary.

(b) A change in interest rate adopted by the board shall not apply to any election of a member to deposit or redeposit contributions, including interest, filed prior to the date the change was placed into effect.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 582; by Stats. 1951, Ch. 1356; by Stats. 1959, Ch. 1274; by Stats. 1967, Ch. 1352; by Stats. 1968, Ch. 941, operative 12/1/68; by Stats. 1991, Ch. 83, effective 6/30/91; and by Stats. 1993, Ch. 1168; renumbered by Stats. 1995, Ch. 379.)

§ 20133. Actuarial Investigation

As of June 30, 1991, and thereafter at the end of periods not to exceed four years, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of members and persons receiving benefits and an actuarial valuation of the assets and liabilities of this system. From time to time, the actuary shall determine the rate of interest being earned on the retirement fund after deducting from earnings amounts applied to costs of administration of this system.

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(Added by Stats. 1991, Ch. 83, effective 6/30/91; amended by Stats. 1993, Ch. 1168; repealed and added by Stats. 1995, Ch. 379.)

§ 20134. Board Hearings

The board may, in its discretion, hold a hearing for the purpose of determining any question presented to it involving any right, benefit, or obligation of a person under this part. Where a hearing is held, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, and the board shall have all of the powers granted therein; except that Section 11508 shall not apply, and the hearing shall be held at the time and place determined by the board.

(Added by Stats. 1947, Ch. 1140; amended by Stats. 1984, Ch. 144; repealed and added by Stats. 1995, Ch. 379.)

§ 20135. Conflicts Between Retirement Systems

To the extent possible, the board shall resolve conflicts between retirement systems applicable to state hospital employees transferred to county or local mental health programs as a result of state hospital closures or scheduled state hospital closures.

(Added by Stats. 1972, Ch. 923; repealed and added by Stats. 1972, Ch. 1228, effective 12/1/72; repealed and added by Stats. 1995, Ch. 379.)

§ 20136. Emerging Domestic Manager—Five Year Plan

(a) Commencing August 1, 2012, the board shall provide a five-year strategic plan for emerging investment manager participation across all asset classes.

(b) The board shall submit a report to the Legislature, commencing March 1, 2014, and each March 1 thereafter, regarding the progress of the strategic plan. The report shall be submitted in compliance with Section 9795 of the Government Code.

(c) The board shall define the term "emerging investment manager" for purposes of this section.

(d) Nothing in this section shall require the board to take action that is not consistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

(Added and Repealed by Stats. 2011, Ch. 701.)

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§ 20138. Preretirement Information Seminars

(a) Notwithstanding any other provisions of law, the board shall provide by rule for conducting structured preretirement information seminars. The seminars shall be for the benefit of all members who have attained age 45.

(b) The board shall devise plans for, and in cooperation with appointing powers, design structured seminars to enhance awareness of the features, benefits, and services of this system. Seminars shall include information to assist members to understand the importance of financial and estate planning and how choices and options offered by this system may impact retirement security.

(Added by Stats. 1989, Ch. 752; repealed and added by Stats. 1995, Ch. 379.)

§ 20139. Administration of funds in California Secure Choice Retirement Savings Trust pursuant to contract with California Secure Choice Retirement Savings Investment Board

The board shall have the power to administer funds in the California Secure Choice Retirement Savings Trust pursuant to a contract with the California Secure Choice Retirement Savings Investment Board as provided in Title 21 (commencing with Section 100000) and to help all California workers to plan and save for retirement.

(Added by Stats. 2012, Ch. 734.)

ARTICLE 3. FIDUCIARY DUTIES

§ 20150. Financial Interests of Members or Employees

A board member or employee of the board shall not, directly or indirectly:

(a) Have any interest in the making of any investment, or in the gains or profits accruing therefrom.

(b) For himself or herself or as an agent or partner of others, borrow any funds or deposits of this system, nor use those funds or deposits in any manner except to make current and necessary payments authorized by the board.

(c) Become an indorser, surety or obligor on investments by the board.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20151. Duties of Board, Officers, and Employees

The board and its officers and employees shall discharge their duties with respect to this system solely in the interest of the participants and beneficiaries:

(a) For the exclusive purpose of both of the following:

(1) Providing benefits to members, retired members, and their survivors and beneficiaries.

(2) Defraying reasonable expenses of administering this system.

(b) Minimizing the employers' costs of providing benefits under this part.

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(c) By investing with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(Added by Stats. 1983, Ch. 462; amended by Stats. 1991, Ch. 83, effective 6/30/91; renumbered by Stats. 1995, Ch. 379.)

§ 20152. Continuous Appropriation

Notwithstanding Section 13340, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund to the board, the amount necessary to pay for any insurance obtained pursuant to Section 7511, which payments shall be made upon warrants drawn by the Controller upon demands made by the board.

(Added by Stats. 1984, Ch. 1503; renumbered by Stats. 1995, Ch. 379.)

§ 20152.5. Board Sessions; Vendor or Contractor Disclosure

No matter involving any vendor or contractor in their individual or any other capacity shall be considered during a closed session on any transaction involving the system unless, prior to the closed session, a written disclosure has been submitted by the vendor or contractor of any campaign contributions aggregating two hundred fifty dollars ($250) or more and any gifts aggregating fifty dollars ($50) or more in value that the vendor or contractor has made during the preceding calendar year to any member of the board or any officer or employee of the system. Failure to disclose the campaign contributions and gifts shall provide the basis for disqualification of the contractor or the vendor.

(Added by Stats. 1998, Ch. 923.)

§ 20153. Restriction on Communication with Applicant or Bidder

(a) During the process leading to an award of any contract by the system, no member of the board or its staff shall knowingly communicate concerning any matter relating to the contract or selection process with any party financially interested in the contract or an officer or employee of that party, unless the communication is (1) part of the process expressly described in the request for proposal or other solicitation invitation, or (2) part of a noticed board meeting, or (3) as provided in subdivision (c). Any applicant or bidder who knowingly participates in a communication that is prohibited by this subdivision shall be disqualified from the contract award.

(b) During the evaluation of any prospective investment transaction, no party who is financially interested in the transaction, or an officer or employee of that party, may knowingly communicate with any board member concerning any matter relating to the transaction or its evaluation, unless the financially interested

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party discloses the content of the communication in a writing addressed and submitted to the executive officer and the board prior to the board's action on the prospective transaction. This subdivision shall not apply to communications that are part of a noticed board meeting, or as provided in subdivision (c).

(1) The writing shall disclose the date and location of the communication, and the substance of the matters discussed. The board shall prescribe other procedures concerning this disclosure.

(2) Any board member who participates in a communication subject to this subdivision shall also have the obligation to disclose the communication to the executive officer and board, prior to the board's action on the prospective transaction. The board shall prescribe procedures for this disclosure, including procedures to apply to board members who fail to disclose communications as required by the subdivision.

(3) Consistent with its fiduciary duties, the board shall determine the appropriate remedy for any knowing failure of a financially interested party to comply with this subdivision including, but not limited to, outright rejection of the prospective investment transaction, reduction in fee received, or any other sanction.

(4) The communications disclosed under this subdivision shall be made public, either at the open meeting of the board in which the transaction is considered, or if in closed session, upon public disclosure of any closed session votes concerning the investment transaction.

(c) The procedures and prohibitions prescribed by this section shall not apply to:

(1) Communications that are incidental, exclusively social, and do not involve the system or its business, or the board or staff member's role as a system official.

(2) Communications that do not involve the system or its business and that are within the scope of the board or staff member's private business or public office wholly unrelated to the system.

(Added by Stats. 1991, Ch. 1153; and by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 923.)

ARTICLE 4. CORRECTION OF ERRORS AND OMISSIONS

§ 20160. Criteria for Correction

(a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, provided that all of the following facts exist:

(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.

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(2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the university, any contracting agency, any state agency or department, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 20164.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.

(3) That the purposes of this part will not be effectuated if the correction is performed in a retroactive manner.

(Added by Stats. 1953, Ch. 764; repealed and added by Stats. 1988, Ch. 1089; repealed and added by Stats. 1995, Ch. 379.)

§ 20161. Recalculations and Adjustments

Notwithstanding any other provision of this part or of Section 13943.2 or 16302.1 to the contrary, the following shall apply:

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(a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars ($250) or less.

(b) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars ($50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars ($50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars ($250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars ($250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars ($5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 13943.2.

(Added by Stats. 1978, Ch. 799; amended by Stats. 1987, Ch. 1001; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 10, effective 5/14/03; and Ch. 519.)

§ 20162. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20163. Method of Making Adjustments

(a) If more or less than the correct amount of contribution required of members, the state, or any contracting agency, is paid, proper adjustment shall be made in connection with subsequent payments, or the adjustments may be made by direct cash payments between the member, state, or contracting agency concerned and the board or by adjustment of the employer's rate of contribution. Adjustments to correct any other errors in payments to or by the board, including adjustments of contributions, with interest, that are found to be erroneous as the result of corrections of dates of birth, may be made in the same manner. Adjustments to correct overpayment of a retirement allowance may also be made by adjusting the allowance so that the retired person or the retired person and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled. Losses or gains resulting from error in amounts within the limits set by the California Victim Compensation and Government Claims Board for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoff by the California Victim Compensation and Government Claims Board, shall be debited or credited, as the

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case may be, to the reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

(b) No adjustment shall be made because less than the correct amount of normal contributions was paid by a member if the board finds that the error was not known to the member and was not the result of erroneous information provided by him or her to this system or to his or her employer. The failure to adjust shall not preclude action under Section 20160 correcting the date upon which the person became a member.

(c) The actuarial equivalent under this section shall be computed on the basis of the mortality tables and actuarial interest rate in effect under this system on December 1, 1970, for retirements effective through December 31, 1979. Commencing with retirements effective January 1, 1980, and at corresponding 10-year intervals thereafter, or more frequently at the board's discretion, the board shall change the basis for calculating actuarial equivalents under this article to agree with the interest rate and mortality tables in effect at the commencement of each 10-year or succeeding interval.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612; by Stats. 1953, Ch. 1186; by Stats. 1957, Ch. 936; by Stats. 1970, Ch. 1049; by Stats. 1971, Ch. 742, effective 9/21/71; by Stats. 1979, Ch. 240; by Stats. 1982, Ch. 72, effective and operative 3/1/82; and by Stats. 1983, Ch. 773; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2005, Ch. 328; and by Stats. 2006, Ch. 538.)

§ 20164. Obligation of System to Members

(a) The obligations of this system to its members continue throughout their respective memberships, and the obligations of this system to and in respect to retired members continue throughout the lives of the respective retired members, and thereafter until all obligations to their respective beneficiaries under optional settlements have been discharged. The obligations of the state and contracting agencies to this system in respect to members employed by them, respectively, continue throughout the memberships of the respective members, and the obligations of the state and contracting agencies to this system in respect to retired members formerly employed by them, respectively, continue until all of the obligations of this system in respect to those retired members, respectively, have been discharged. The obligations of any member to this system continue throughout his or her membership, and thereafter until all of the obligations of this system to or in respect to him or her have been discharged.

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, whether pursuant to Section 20160, 20163, or 20532, or otherwise, the period of limitation of actions shall be three years, and shall be applied as follows:

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(1) In cases where this system makes an erroneous payment to a member or beneficiary, this system's right to collect shall expire three years from the date of payment.

(2) In cases where this system owes money to a member or beneficiary, the period of limitations shall not apply.

(c) Notwithstanding subdivision (b), in cases where payment is erroneous because of the death of the retired member or beneficiary or because of the remarriage of the beneficiary, the period of limitation shall be 10 years and shall commence with the discovery of the erroneous payment.

(d) Notwithstanding subdivision (b), where any payment has been made as a result of fraudulent reports for compensation made, or caused to be made, by a member for his or her own benefit, the period of limitation shall be 10 years and that period shall commence either from the date of payment or upon discovery of the fraudulent reporting, whichever date is later.

(e) The board shall determine the applicability of the period of limitations in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error or omission.

(Added by Stats. 1953, Ch. 764; amended by Stats. 1968, Ch. 240; by Stats. 1983, Ch. 773; by Stats. 1987, Ch. 91; and by Stats. 1993, Ch. 1297, operative 7/1/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130.)

ARTICLE 5. THE RETIREMENT FUND

§ 20170. Creation and Continuation of Fund

The Public Employees' Retirement Fund in the State Treasury is continued in existence.

The Public Employees' Retirement Fund is a trust fund created, and administered in accordance with this part, solely for the benefit of the members and retired members of this system and their survivors and beneficiaries.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1967, Ch. 84 and Ch. 1631; and by Stats. 1978, Ch. 231; renumbered by Stats. 1995, Ch. 379.)

§ 20171. Control By Board

The board has the exclusive control of the administration and investment of the retirement fund.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

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§ 20172. Investment Custodian; Continuous Appropriation

Notwithstanding any other provision of law, the board may retain a bank or trust company to serve as custodian for safekeeping, delivery, securities valuation, investment performance reporting, and other services in connection with investment of the retirement fund. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated, without regard to fiscal years, for payments which shall be made upon warrants drawn by the Controller upon demands made by the board. Upon demand of the board, warrants shall be drawn for the purpose of making payments by electronic fund transfers.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1982, Ch. 1231; and by Stats. 1986, Ch. 900; renumbered by Stats. 1995, Ch. 379.)

§ 20173. Administrative Costs

Costs of administration of this system shall be paid from funds appropriated for interest income from the retirement fund.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1971, Ch. 895; and by Stats. 1975, Ch. 1002; renumbered by Stats. 1995, Ch. 379.)

§ 20174. Interest and Income on Assets

Interest earned on any cash deposit in a bank by the Treasurer and income on other assets constituting a part of the fund shall be credited to the fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during that year shall be retained in the fund as a reserve against deficiencies in interest earned in other years, losses under investments, court-mandated costs, and actuarial losses resulting from terminations, mergers, and dissolutions of contracting agencies.

Unless specifically authorized by this part, no funds in the reserve against deficiencies shall be available for the payment of benefits. The board, however, may apply to reduce the book value of securities purchased all or part of the excess of the proceeds of the sale or the redemption prior to maturity of securities over the book value of the securities sold (a) if the purchase of securities is made with those proceeds and (b) if the terms of both securities from the date of sale, redemption prior to maturity, or purchase, as the case may be, to the respective dates of maturity do not differ by more than five years. All applications of these excess proceeds, even with greater differences in terms, heretofore made by the board are hereby validated and confirmed.

At the end of each fiscal year, the amount in the reserve against deficiencies that exceeds 0.20 percent of the total assets of this system shall be credited to other accounts as prescribed by this part.

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(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; by Stats. 1955, Ch. 1705; and by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/82; repealed and added by Stats. 1982, Ch. 1496; amended by Stats. 1988, Ch. 1356; and by Stats. 1990, Ch. 1251, effective 9/24/90; renumbered by Stats. 1995, Ch. 379.)

§ 20175. Funds In The Reserve Against Deficiencies

Notwithstanding any other provision of law, funds in the reserve against deficiencies shall not be used to pay any employers' contribution required by this chapter to be paid by the state, any school employer, or any contracting agency.

(Added by Stats. 1982, Ch. 1562, operative 7/1/83; renumbered by Stats. 1995, Ch. 379.)

§ 20176. Expenditure of Retirement Funds

Notwithstanding any other provision of law, no funds in the retirement fund shall be expended for any purpose other than the cost of administration of this system, investments for the benefit of this system, the reduction of employer contributions, and the provision of benefits to the members and retired members of this system and their survivors and beneficiaries.

(Added by Stats. 1983, Ch. 923; amended by Stats. 1991, Ch. 83, effective 6/30/91; renumbered by Stats. 1995, Ch. 379.)

§ 20177. Deposit of Funds

The board shall deposit monthly in the State Treasury to the credit of the retirement fund all amounts received by it under this part.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20178. Interest Credited on Member Contributions

(a) The board shall credit all contributions of members in the retirement fund with interest at an interest crediting rate of 6 percent compounded at each June 30. The retired member reserves in the retirement fund shall be credited with the lesser of the current actuarial interest rate or the current annual interest rate compounded at each June 30. The interest amount that would have been credited to the member's account on and after June 30, 1991, had the account been credited with the lesser of the current actuarial interest rate or the current annual interest rate, rather than at the 6-percent interest crediting rate, shall be credited to retired member reserves.

(b) Notwithstanding subdivision (a), the difference between the interest amount that was credited to the account of any state or school member of this system who was paid his or her accumulated contributions on or after June 30, 1991, and the lesser of the current actuarial interest rate or the current annual interest rate, shall

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be transferred to the state or school account, as appropriate, established by the board under Section 21337 to fund the purchasing power protection allowance for retirees, survivors, or beneficiaries of state or school employers.

(c) Notwithstanding subdivisions (a) and (b), if the current net earnings rate for state or school members exceeds the interest rate used to credit the retired member accounts of state or school employers, in addition to the amounts transferred to the separate accounts established for state and school employers under Section 21337, the remaining amounts shall be credited to employer accounts.

(d) The current annual interest rate may be lower than the current actuarial interest rate.

(Added by Stats. 1991, Ch. 83, effective 6/30/91; amended by Stats. 1993, Ch. 1168; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 483, operative 7/1/00, effective 9/19/00.)

ARTICLE 6. INVESTMENTS

§ 20190. Control of Investments By Board

The board has exclusive control of the investment of the retirement fund. Except as otherwise restricted by the California Constitution and by law, the board may, in its discretion, invest the assets of the fund through the purchase, holding, or sale thereof of any investment, financial instrument, or financial transaction when the investment, financial instrument, or financial transaction is prudent in the informed opinion of the board.

(Added by Stats. 1984, Ch. 469, effective 7/16/84; renumbered by Stats. 1995, Ch. 379.)

§ 20191. Authorization for Investment

The board may itself make any investment authorized by law or sell any security, obligation, or real property in which moneys in the retirement fund are invested, by affirmative vote of at least seven members of the board, or by the same affirmative vote may from time to time adopt an investment resolution that shall contain detailed guidelines by which to designate those securities and real property that are acceptable for purchase. While the resolution is in effect, securities and real property may be purchased for investment by an officer or employee of the board designated by it for that purpose, and sales of securities may be consummated by the officer or employee under the conditions prescribed. Purchases and sales of securities shall be reported to the board, on a monthly basis, at its next regular meeting.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1963, Ch. 2098. Originally 20205, as amended by Stats. 1951, Ch. 1602, and by Stats. 1963, Ch. 2098; amended and renumbered by Stats. 1965, Ch. 1183; amended by Stats. 1972, Ch. 287; by Stats. 1982, Ch. 77, effective and operative 3/1/82; and by Stats. 1984, Ch.110, effective 5/3/84; renumbered by Stats. 1995, Ch. 379.)

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§ 20191.5. Investment Transactions—Rollcall Vote and Public Meeting

(a) All investment transaction decisions made during a closed session pursuant to paragraph (16) of subdivision (c) of Section 11126 shall be by rollcall vote entered into the minutes of that meeting.

(b) The board, within 12 months of the close of an investment transaction or the transfer of system assets for an investment transaction, whichever occurs first, shall disclose and report the investment at a public meeting.

(Added by Stats. 1998, Ch. 923.)

§ 20192. Investments in Real Estate

In addition to the other investments authorized by this article, the board may invest in real estate and leases thereof and improvements thereon for business or residential purposes as an investment for the production of income.

(Added by Stats. 1971, Ch. 1422; amended by Stats. 1983, Ch. 1180; renumbered by Stats. 1995, Ch. 379.)

§ 20193. Investments in Real Estate—Public Buildings

The board may invest the money in the retirement fund in real property or improvements thereon or to be constructed thereon when the real property or improvements are acquired or to be made by or for sale or lease to the state or a public agency. The board may acquire the real property under Part 11 (commencing with Section 15850) of Division 3. Title to real property acquired by or on behalf of the board pursuant to this section or under Part 11 (commencing with Section 15850) of Division 3 shall be vested in the board. The Director of General Services on behalf of the state may hire or lease as lessee real property or improvements acquired pursuant to this section for lease to the state. The lease may contain an option or options to purchase the property, or a provision that title to the property shall vest in the state at the expiration of the term, and the Director of General Services is authorized to acquire the property. The board also may invest money in any valid special obligations of the state or a public agency or an agency of either issued to finance a public building and secured solely by the building or revenues, rentals or receipts received from operation of the building. This section shall not be construed as authorization to acquire any real property or improvements thereon or to issue any obligation to finance the acquisition on behalf of the state unless that acquisition is authorized by a separate act or appropriation enacted by the Legislature.

(Added by Stats. 1959, Ch. 760; amended by Stats. 1961, Ch. 1684; amended and renumbered by Stats. 1965, Ch. 1183; amended by Stats. 1967, Ch. 1454; renumbered by Stats. 1995, Ch. 379.)

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§ 20194. Priority of Investing of Funds

(a) Notwithstanding any other provision of law, the board shall give first priority to investing not less than 25 percent of all funds which become available in a fiscal year for new investments, in the following:

(1) Obligations secured by a lien or charge solely on residential realty, including rental housing, located in the state and on the security of which, commercial banks are permitted to make loans pursuant to Article 2 (commencing with Section 1220) of Chapter 10 of Division 1 of the Financial Code.

(2) Securities representing a beneficial interest in a pool of obligations secured by a lien or charge solely on residential realty located in the state.

(3) Certificates of deposit issued by savings and loan associations, if the savings and loan associations agree to make loans, or to fund tax-exempt notes or bonds issued by housing authorities, cities, or counties, on residential realty located in the state, including rental housing, in an amount equal to the amount of the deposit.

(b) Funds subject to investment pursuant to this section include all moneys received as employer and member contributions, investment income, and the proceeds from all net gains and losses from securities, reduced by the amount of benefit payments and withdrawals occurring during the fiscal year. In computing the amount of investment pursuant to this section, a dollar-for-dollar credit shall be given for residential realty investments described in this section that are contractually agreed to be made by a financial institution from which the board, in consideration thereof, purchases other investments. In computing the amount of investment pursuant to this section, the board may elect to include the dollar amount of commitments to purchase mortgages from public revenue bond programs in the year the commitment is given. However, that election may not exceed one-fifth of the total guideline amount.

(c) Nothing in this section shall be construed to require the acquisition of any instrument or security at less than the market rate.

(d) If the board determines during any fiscal year that compliance with this section will result in lower overall earnings for the fund than obtainable from alternative investment opportunities that would provide equal or superior security, including guarantee of yield, the board may substitute those higher yielding investments, to the extent actually available for acquisition, for the investments otherwise specified by this section. Additionally, if, and to the extent that, adherence to the diversification guideline specified in this section would conflict with its fiduciary obligations in violation of Section 9 of Article I of the California Constitution or Section 10 of Article I of the United States Constitution, or would conflict with the standard for prudent investment of the fund set forth in Section 17 of Article XVI of the California Constitution, the board may substitute alternative investments. In that case, the board shall estimate the amount of funds available for investment in substitute alternative investments and the amount of

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funds invested pursuant to the first paragraph of this section and shall submit its resolution of findings and determinations, together with a description of the type, quantity, and yield of the investments substituted, to the Governor and to the Joint Committee on Legislative Audit within 20 days following the conclusion of the fiscal year. Within 30 days thereafter, the Joint Committee on Legislative Audit shall transmit the State Auditor's report to the Speaker of the Assembly and to the Senate Committee on Rules for transmittal to affected policy committees.

(e) The board, upon determining the final amount of funds available for investment in substitute alternative investments and the estimated amount of funds invested pursuant to the first paragraph of this section, shall submit that information to the Governor and the Joint Committee on Legislative Audit. Thereafter, the Joint Committee on Legislative Audit shall transmit the report of the State Auditor to the Speaker of the Assembly and the Senate Committee on Rules for transmittal to the affected policy committees.

(Added by Stats. 1987, Ch. 766; amended by Stats. 1992; Ch. 540, effective 8/21/92; renumbered by Stats. 1995, Ch. 379.)

§ 20194.5. Property Assessed Clean Energy (PACE) Bonds

In addition to the other investments authorized by this article, the board may invest in Property Assessed Clean Energy (PACE) bonds, as defined in Section 26104 of the Public Resources Code.

(Added by Stats. 2010, Ch. 583.)

§ 20195. Investments in Real Estate—Sacramento County

(a) The board may select, purchase, or acquire in the name of the system, the fee or any lesser interest in real property, improved or unimproved, and may construct or remodel, and equip, an office building, including appropriate satellite structures, in the County of Sacramento, California, for its use and for the use of other state retirement systems excepting the State Teachers' Retirement System, other departments, boards, and agencies of the state, or appropriate private commercial entities as space may be available from time to time. The office building and satellite structures shall conform to the Capital Master Plan if located within an area subject to the plan.

(b) The board may select, purchase, or acquire in the name of the system, the fee or any lesser interest in real property, improved or unimproved, and may construct or remodel, and equip, business recovery centers in California for use by the system as an alternate facility, emergency operations center, or data center that the board determines is appropriate for disaster preparedness.

(c) If the board acquires bare land, improvements shall be constructed according to plans approved by the State Public Works Board and Department of General Services.

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(d) If the board acquires land with improvements thereon, the improvements shall be remodeled or completed in accordance with plans approved by the State Public Works Board and Department of General Services.

(e) If condemnation of the property selected is necessary, the board may elect to deposit the funds deemed necessary with the Treasurer. The funds are appropriated for purchase of the selected property subject to the Property Acquisition Law.

(f) Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to bidding procedures set forth in Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(Added by Stats. 1977, Ch. 1089, effective 9/27/77; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 378 and by Stats. 2009, Ch. 130.)

§ 20196. Contracts for Acquisition and Construction

The board may contract with the Department of General Services or any other state department for assistance and supervision in the acquisition of real property and the construction thereon of buildings and improvements authorized in this article.

(Added by Stats. 1977, Ch. 1089, effective 9/27/77; renumbered by Stats. 1995, Ch. 379.)

§ 20197. Lease of Excess Space

All buildings and improvements constructed by the board under this article may contain space in excess of the immediate requirements of the board that, until needed, may be leased by the board upon those terms and conditions as may be approved by the board.

The board may contract with the Department of General Services to handle the rentals of any excess space over and above that required by the board and to furnish general supervision and maintenance of buildings and improvements constructed under the provisions of this article..

(Added by Stats. 1977, Ch. 1089, effective 9/27/77; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639.)

§ 20198. Supervision of Building or Improvement

Any building or improvement constructed by the board under this article shall be subject to the supervision of the board in accordance with rules and regulations established by the board with the assistance of the Department of General Services.

(Added by Stats. 1977, Ch. 1089, effective 9/27/77; renumbered by Stats. 1995, Ch. 379.)

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§ 20199. Building Account

The board shall establish a building account for the transfer of money that is continuously appropriated for that purpose from the retirement fund for the cost of the acquisition of real property, the construction or remodeling of buildings and improvements thereon, the maintenance, repair, and improvement thereof, and for other necessary operational expenses.

For accounting purposes the board shall pay to the building account an amount sufficient to repay all costs for construction and maintenance of space used by the board. Other amounts or contributions received shall be deposited in the building account and disbursed as provided in this section.

The board may contract with the Department of General Services for the purchase of insurance against loss of, or damage to, the property or the loss of use or occupancy of the building, liability insurance and other insurance as is customarily carried on state office buildings. Premiums for the insurance shall be paid from the building account.

Money in the building account that is in excess of current needs shall be paid into the retirement fund monthly. The land, building, equipment, and improvements thereon, shall constitute an asset in the retirement fund and shall be carried on the books thereof as such in accordance with generally accepted accounting practices.

(Added by Stats. 1977, Ch. 1089, effective 9/27/77; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639; and by Stats. 2012, Ch. 833.)

§ 20200. Dave Elder Public Employees' Retirement System Member Home Loan Program Act

(a) Notwithstanding any other provision of law, the board may establish a program utilizing the retirement fund to assist system members, through financing, to obtain homes throughout the United States.

(b) For the purpose of this section, the term "member" means any person who is receiving, or is entitled to receive, a retirement allowance funded by this system, the Legislators' Retirement System, the Judges' Retirement System, or the Judges' Retirement System II, notwithstanding any vesting requirement and without regard to present eligibility to retire.

(c) The board shall adopt regulations governing the program that shall, among other things, provide:

(1) That home loans be made available to members for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(2) That private lending institutions throughout the United States shall originate and service its home loans pursuant to agreements entered into between those institutions and the board.

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(3) That the recipients of the loans occupy the homes as their permanent residences in accord with rules and regulations established by the board.

(4) That its home loans shall be available only for the purchase or refinancing of homes throughout the United States and that under no condition shall a member have more than one outstanding loan.

(5) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board that shall provide a loan-to-value ratio of no greater than the following:

(A) One hundred percent for the first loan for a single-family dwelling, single-family cooperative apartment, or single-family condominium.

(B) Ninety-five percent for the first loan on a two-family dwelling.

(C) Ninety percent for the first loan on a three-family dwelling or four-family dwelling.

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.

(6) That there may be prepayment penalties assessed on its loans in accordance with rules and regulations established by the board.

(7) That the criteria and terms for its loans shall provide the greatest benefit to members consistent with the financial integrity of the program and the sound investment of the retirement fund.

(8) Any other terms and conditions as the board shall deem appropriate.

(d) This section shall be known as, and may be cited as, the Dave Elder Public Employees' Retirement System Member Home Loan Program

(Added by Stats. 1980, Ch. 410; amended by Stats. 1986, Ch. 369; by Stats. 1988, Ch. 408; by Stats. 1990, Ch. 11; by Stats. 1992, Ch. 1071, effective 9/29/92; and by Stats. 1994, Ch. 879, effective 9/27/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 678; and by Stats. 2003, Ch. 97.)

§ 20201. Secured Personal Loan Programs

(a) It is the intent of the Legislature that the provisions of this section be available to assist members in obtaining homes throughout the United States. The Legislature intends that home loans made pursuant to Section 20200 and this section shall be secured primarily by the property acquired except as authorized pursuant to paragraph (1) of subdivision (b) and shall not exceed the fair market value of the property acquired.

(b) The board shall include in any program established pursuant to Section 20200 a procedure whereby a member may obtain 100-percent financing for the

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purchase of a single-family dwelling unit in accordance with the following criteria:

(1) The member shall obtain one loan with a loan-to-value ratio not to exceed 95 percent secured by the purchased home and a second personal loan with a loan-to-value ratio not to exceed 5 percent secured by a portion of the accumulated contributions and vested accrued benefits in the member's individual account. A member can only have one outstanding personal loan.

(2) The loan secured by the purchased home shall be consistent with the loan-to-value ratios specified in the schedules established pursuant to Section 20200.

(3) The amount of a conforming loan on a single-family dwelling unit shall not exceed 95 percent of the Federal National Mortgage Association (FNMA) conforming loan limits. The amount shall be adjusted annually as determined by the Federal National Mortgage Association (FNMA). In no event, shall the loan amount exceed three hundred fifty thousand dollars ($350,000).

(4) In no event may the personal loan secured by the accumulated contributions and vested accrued benefits in the member's individual account exceed 50 percent of the current value amount of the accumulated contributions.

(5) The pledge of security under this section shall remain in effect until the loan is paid in full.

(c) In the event of a default on the personal loan secured by the member's contributions as authorized by this section, the board may deduct an amount from the member's contributions on deposit and adjust the member's accrued benefit, up to the amount pledged as security, prior to making any disbursement of retirement benefits.

(d) The secured personal loan permitted under this section shall be made available only to currently employed members who meet eligibility criteria the board deems advisable.

(e) If the member is married at the time the home is purchased with a personal loan secured by the member's contributions as authorized by this section, then the member's spouse shall agree in writing to the pledge of security, as to his or her community interest in the amount pledged regardless of whether title to the home is in joint tenancy.

(f) The pledge of security under this section shall take binding effect, notwithstanding Section 21255. In the event of default, the accumulated contributions in the member's account shall be reduced as necessary to recover any outstanding loan balance, not to exceed the pledged amount.

(g) Appropriate administrative costs of implementing this section shall be paid by the members utilizing this section. Those costs may be included in the loan amount.

(h) Appropriate interest rates shall be periodically reviewed and adjusted to provide loans to members consistent with the financial integrity of the member home loan program and the sound and prudent investment of the retirement fund.

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(i) The amendments to this section by Chapter 1094 of the Statutes of 1994 shall be deemed to have become operative on November 1, 1993.

(j) The board shall administer this section under other terms and conditions it deems appropriate and in keeping with the investment standard set forth in Section 20151. The board may adopt procedural guidelines as necessary for its administration of this section and to assure compliance with applicable state and federal laws.

(Added by Stats. 1989, Ch. 355; amended by Stats. 1992, Ch. 1071, effective 9/29/92; and by Stats. 1994, Ch. 1094, effective 9/29/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 678.)

§ 20202. Natural Disaster Loan Program

The board may, subject to and consistent with its fiduciary duty, establish a program utilizing the retirement fund to assist currently employed members and annuitants who are victims of a natural disaster to obtain loans from the retirement fund for the sole purpose of repairing or rebuilding their homes which have been damaged by a natural disaster. In order to qualify for a loan the home of the member or annuitant shall have been damaged by a natural disaster and the home shall have been in an area that has been declared a disaster area in a proclamation of the Governor of a state of emergency affecting the area in which the member or annuitant resides.

The board may lend any amount of money, up to and including 100 percent of the costs of repairing or rebuilding a home of a member or annuitant. However, 5 percent of the loan shall be secured by the contributions of the member who requests the loan.

The board may, under conditions it may deem prudent, require that a member or annuitant pledge other assets as collateral for a loan.

The board shall establish terms for the termination of loans made pursuant to this section upon the separation of members from service, to ensure, in the case of any default, that this system shall not suffer any loss, and to provide, as a condition of retirement, for alternative security. The board may impose other terms and conditions as the board may determine appropriate.

The Legislature hereby reserves full power and authority to change, revise, limit, expand, or repeal the loan program authorized by this section.

(Added by Stats. 1990, 1st Ex. Sess., Ch. 35, effective 12/1/90; repealed and added by Stats. 1995, Ch. 379.)

§ 20203. Security Loan Agreements

Notwithstanding any other provision of the law, the board may enter into security loan agreements pursuant to Division 8 (commencing with Section 7600) of Title 1 with respect to securities in which the board is authorized by law to invest.

(Added by Stats. 1975, Ch. 1214, effective 9/30/75; repealed and added by Stats. 1995, Ch. 379.)

§ 20204. Repealed

(Added by Stats. 1982, Ch. 1194; repealed and added by Stats. 1995, Ch. 379; repealed by Stats. 2013, Ch. 778.)

§ 20206. Investment Counseling Services

The board shall employ investment counsel on its staff or on a consulting basis or trust companies or trust departments of banks to render service in connection with the board's investment program.

Whenever the board elects to contract with outside firms for investment counseling services it shall obtain proposals from all interested firms and conduct a public meeting at which a consultant or consultants shall be selected by the board. At least once in each three-year period after the prior selection, a consultant or consultants shall be obtained by the same procedure upon submission of new proposals.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1963, Ch. 2098; amended and renumbered by Stats. 1965, Ch. 1183; added by Stats. 1967, Ch. 1510; amended by Stats. 1972, Ch. 1277; and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; repealed and added by Stats. 1995, Ch. 379.)

§ 20207. Legislative Intent—Investment Advisors

(a) The Legislature finds and declares that changing economic conditions and increasing complexity in the investment market make it necessary and desirable that this system obtain the best possible investment expertise.

(b) It is the intent of the Legislature that the board secure investment advisers with the composite expertise necessary for the investment of the retirement fund portfolio.

(Added by Stats. 1982, Ch. 1433; amended by Stats. 1986, Ch. 230; renumbered by Stats. 1995, Ch. 379.)

§ 20208. Contract Investment Services

Upon a finding by the board that necessary investment expertise is not available within existing civil service classifications, and with the approval of the State Personnel Board, the board may contract with qualified investment personnel having demonstrated expertise in the management of large and diverse investment portfolios to render service in connection with the investment program of the board.

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The board shall report to the Governor, the Legislature, and the Joint Legislative Budget Committee on the nature, duration, and cost of investment contract services used. The report shall be submitted annually in April.

(Added by Stats. 1982, Ch. 1433; amended by Stats. 1986, Ch. 230; repealed and added by Stats. 1995, Ch. 379.)

§ 20209. Monitoring of Investments

The board shall, pursuant to the state civil service statutes, either contract with, or establish and fill a full-time position for, a person who is experienced and knowledgeable in corporate management issues to monitor each corporation any of whose shares are owned by this system and to advise the board on the voting of the shares owned by this system and on the responses of this system to merger proposals and tender offers.

Notwithstanding Section 13340, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund, an amount sufficient to pay all costs arising from this section.

(Added by Stats. 1984, Ch. 1105; renumbered by Stats. 1995, Ch. 379.)

§ 20210. Individual Investment Advisors

Notwithstanding any other provision of law, the board shall, by contract, retain not less than two separate individual investment advisers. There is hereby appropriated, without regard to fiscal year, from the retirement fund, an amount sufficient to pay all costs arising from this section.

No costs arising from this section shall be paid from the General Fund.

(Added by Stats. 1982, Ch. 1431; repealed and added by Stats. 1995, Ch. 379.)

ARTICLE 7. RECORDS AND REPORTS

§ 20220. Administrative Information and Data

The board shall, on the request of a board of retirement of a county retirement system supply information and data necessary for administration of that system as it is affected by membership in and service credited under this system.

(Added by Stats. 1945, Ch. 123; repealed by Stats. 1947, Ch. 1140; added by Stats. 1957, Ch. 2399, effective 10/1/57; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20221. Information to be Furnished to Board

Each state agency, school employer, and the chief administrative officer of a contracting agency or any other person who its governing body may designate shall furnish all of the following:

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(a) Immediate notice to the board, in the manner prescribed by the system, of the change in status of any member resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death.

(b) Any additional information concerning any member that the board may require in the administration of this system.

(c) The services of its officer and departments that the board may request in connection with claims by members against this system.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1980, Ch. 1168, effective 9/29/80; amended by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130.)

§ 20221.5. Information to be Furnished to the Board—Non-Member Data

Every state agency, school employer, or contracting agency shall, upon request from the board, provide information on its employees who are not enrolled as members of the system to assist the board to carry out the administration of the system.

(a) The information provided under this section shall be submitted in the manner and under the conditions prescribed by the board.

(b) Nothing in this section shall be construed to supersede or diminish an employer's responsibility to determine eligibility or to enroll its qualifying employees in membership.

(c) Any information obtained under this section shall be treated as confidential by the system, under the same terms and conditions that apply to information that is confidential pursuant to Section 20230.

(Added by Stats. 2008, Ch. 261.)

§ 20222. Monthly University Reports

The comptroller of the university, or any other official who the university may designate, shall furnish monthly reports to the board showing changes in the status of all members employed by the university during the preceding month, and shall furnish any additional information concerning any members that the board may require in the administration of this system.

(Added by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379.)

§ 20222.5. Audits—Employer Information

(a) The board may, during the course of an audit, require each state employer, school employer, including each school district represented by a school employer, and contracting agency, to provide information or make available for examination or copying at a specified time and place, or both, books, papers, any data, or records, including, but not limited to, personnel and payroll records, as deemed

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necessary by the board to determine the correctness of retirement benefits, reportable compensation, enrollment in, and reinstatement to this system.

(b) Before initiating an audit, the board shall notify the subject of the audit of the estimated time required to complete the audit. The estimate shall be based upon various factors, including, but not limited to, the following:

(1) The number of employees.

(2) Employment classifications.

(3) Benefits.

(4) Contract provisions.

(5) Geographical location.

(6) Time required for audits of comparable entities.

(7) Additional time factors raised by the subject of the audit.

(c) If an audit requires an excess of the time estimated, the board may assess a reasonable charge upon the employer to recover additional costs incurred for the excess time to complete the audit. A contracting agency shall not be assessed for delays during the course of an audit that are reasonably outside of the agency's control.

(d) The information obtained from an employer under this section shall remain confidential pursuant to Section 20230.

(Added by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2011, ch 107.)

§ 20223. Information Affecting Status of Members

Each employee shall file with the board information affecting his or her status as a member as the board may require.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20224. Estimates of Length of Service, Compensation, or Age

If it is impracticable for the board to determine from the records the length of service, compensation, or age of any member, or if any member refuses or fails to give the board a statement of his or her state service, compensation, or age, the board may estimate the length of service, compensation, or age.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20225. Necessary Records and Accounts

(a) In addition to other records and accounts, the board shall keep records and accounts necessary to compute at any time:

(1) The total accumulated contributions of members.

(2) The total accumulated contributions of retired members and of deceased members, to or on account of whom payments involving life contingencies are paid, less the annuity payments made to the members.

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(3) The accumulated contributions of the state, school employers, and of contracting agencies held for the benefit of members on account of current service.

(4) All other accumulated contributions of the state, school employers, and of contracting agencies, which shall include the amounts available to meet the obligation of the state, school employers, and of the contracting agencies, respectively, on account of benefits that have been granted to, or on account of, retired and deceased employees and on account of prior service of members.

(b) For the purposes of this section, all employers subject to Chapter 9 (commencing with Section 20790) shall be deemed to be a single account with respect to their local miscellaneous members, all other employers not subject to Chapter 9 shall be deemed to be a single account with respect to their local miscellaneous members, all employers of local safety members shall be deemed to be a single account with respect to those local safety members, and all employers of school members shall be deemed to be a single account with respect to those school members.

However, the purposes of this section shall be construed in conformity with the individual employer contribution rates established pursuant to Section 20815.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 614; by Stats. 1953, Ch. 1186; by Stats. 1967, Ch. 1631; by Stats. 1971, Ch. 170; by Stats. 1973, Ch. 1192; by Stats. 1974, Ch. 1399; by Stats. 1978, Ch. 1180, effective 9/26/78; by Stats. 1979, Ch. 1110, effective 9/27/79, operative 1/1/80; by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; and by Stats. 1989, Ch. 1427, effective 10/2/89; renumbered by Stats. 1995, Ch. 379.)

§ 20225.5. Repealed

(Repealed by Stats. 2002, Ch. 1133.)

§ 20226. Additional Records and Accounts—Contributions for 1959 Survivor Allowances

The records and accounts required under Section 20225 shall not include the contributions made by the state or contracting agencies with respect to the survivor allowances provided for in Article 3 (commencing with Section 21570) of Chapter 14. The board shall keep additional records and accounts with respect to those contributions as will show at any time the accumulated contributions of the state and of contracting agencies held to meet the obligation of the state and of the contracting agencies, respectively, on account of survivor allowances.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379.)

§ 20227. Actuarial Valuation—Financial Statement

The actuary shall cause to be published, as of the date of the investigation and valuation made pursuant to Section 20131, a financial statement showing an actuarial valuation of the assets and liabilities of this system and a statement as to the accumulated cash and securities in the retirement fund as certified by the Controller. The actuary may omit from the statement, which shall be published as of July 1 of every other year, assets and liabilities resulting from prior service, and shall include assets and liabilities on account of current service in amounts equal only to accumulated contributions held on account of that service.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; and by Stats. 1991, Ch. 83, effective 6/30/91; renumbered by Stats. 1995, Ch. 379.)

§ 20228. Audit of Financial Statements

The board shall annually employ a certified public accountant, who is not in public employment, to audit the financial statements of this system. The costs of the audit shall be paid from the income of the retirement fund. The audit shall be made annually. The board shall file a copy of the audit report with the Governor, the Secretary of the Senate, and the Chief Clerk of the Assembly.

The board, for purposes of Section 7504, may file internally prepared financial statements with the Controller within six months of the end of the fiscal year, and shall file independently audited financial statements as soon as they are available.

The annual audits of the financial statements of the system shall not be duplicated by the Department of Finance or the State Auditor.

This section does not affect the ability of the State Auditor or the Department of Finance to conduct other types of audits of the system as otherwise authorized by statute. This system shall be exempt from a pro rata general administrative charge for auditing.

(Added by Stats. 1972, Ch. 1436; amended by Stats. 1982, Ch. 77, effective and operative 3/1/82; and by Stats. 1989, Ch. 177; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130; and by Stats. 2010, Ch. 639.)

§ 20229. Contribution Rates – Legislative Reporting

(a) The board, notwithstanding Section 10231.5, shall provide the Legislature, the Governor, and the Chair of the California Actuarial Advisory Panel, established pursuant to Section 7507.2 of the Government Code, with an annual report that includes all of the following, as these items apply to state employee retirement plans:

(1) (A) A description of the investment return assumption utilized by the board when determining the contribution rates.

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(B) A calculation of the contribution rates utilizing an investment return assumption 2 percentage points above and 2 percentage points below the investment return assumption utilized by the board.

(2) (A) A description of the amortization period for any unfunded liabilities utilized by the board when determining the contribution rates.

(B) A calculation of the contribution rates based on an amortization period equal to the estimated average remaining service periods of employees covered by the contributions.

(3) (A) A description of the discount rate utilized by the board for reporting liabilities.

(B) A calculation of those liabilities based upon a discount rate that is 2 percent below the long-term rate of return actually assumed by the board.

(4) The market value of the assets controlled by the board and an explanation of how the actuarial value assigned to those assets differs from the market value of those assets.

(b) The Chair of the California Actuarial Advisory Panel, or his or her designee, within 30 days of receipt of the report required by subdivision (a) shall, during a publicly noticed joint hearing of the Senate Committee on Public Employment and Retirement and the Assembly Committee on Public Employees, Retirement and Social Security, do all of the following:

(1) Explain the role played by the investment return assumption and amortization period in the calculation of the contribution rates.

(2) Describe the consequences for future state budgets should the investment return assumption not be realized.

(3) Report whether the board's amortization period exceeds the estimated average remaining service periods of employees covered by the contributions.

(c) The report required by subdivision (a) shall be submitted in compliance with Section 9795.

(Added by Stats. 2010, Ch. 733; amended by Stats. 2011, ch 733.)

§ 20230. Confidentiality of Information

Data filed by any member or beneficiary with the board is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his or her authorized representative, the contracting agency or school district by which he or she is employed, any state department or agency, or the university. The information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. Any information that is requested for retirement purposes by any public agency shall be treated as confidential by the agency.

The gross amount of any benefit or any refund of a PERS contribution due to a member or beneficiary is not confidential and may be released upon request to the board.

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The board may seek reimbursement for reasonable administrative expenses incurred when providing that information. Except as provided by this section, no member's, beneficiary's or annuitant's address, home telephone number, or other personal information shall be released.

For purposes of this section, "authorized representative" includes the spouse or beneficiary of a member when no contrary appointment has been made and when, in the opinion of the board, the member is prevented from appointing an authorized representative because of mental or physical incapacity or death.

(Added by Stats. 1953, Ch. 1186; amended by Stats. 1978, Ch. 900; by Stats. 1980, Ch. 481; and by Stats. 1985, Ch. 1508; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 927.)

§ 20231. Release of Earnings Information

Notwithstanding any other provision of law, the Employment Development Department shall disclose to the board information in its possession relating to the earnings of any person who is receiving a disability retirement allowance from this system and has filed with the board a release permitting the Employment Development Department to furnish that information. The earnings information shall be released to the board only upon written request from the board specifying that the person is receiving a disability retirement allowance from this system. The request may be made by the executive officer of this system or by an employee of this system so authorized and identified by name and title by the executive officer in writing. The board shall notify recipients of disability retirement allowances with prescribed limits based on earnings that earnings information from the Employment Development Department's records will be released upon request by the board. The board shall not release any earnings information received from the Employment Development Department to any person, agency, or other entity. This system shall reimburse the Employment Development Department for all reasonable administrative expenses incurred pursuant to this section. Any person receiving a disability retirement allowance who declines to authorize the release of earnings information as provided by this section shall instead furnish the board with proof of earnings the board may require, including, but not limited to, copies of the person's federal and state income tax returns.

(Added by Stats. 1985, Ch. 543; repealed and added by Stats. 1995, Ch. 379.)

§ 20232. Annual Report of Board

As soon as practicable after the close of each fiscal year the board shall file with the Governor and the Legislature a report of its financial statements and investments for the fiscal year. The report shall be submitted in printed or electronic form and shall include, but not be limited to, each of the following:

(a) A copy of the annual audit performed pursuant to Section 20228.

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(b) A review of the system's asset mix strategy, a market review of the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(c) A description of the investments currently held by this system at cost and market value. The description of investments shall include, but not be limited to, the asset classes reported pursuant to Section 20235. The report shall also include a list of all investment holdings at the close of the fiscal year, including any major divestitures taken during the fiscal year.

(d) The following information regarding the rate of return of this system by asset type:

(1) Time-weighted market value rate of return on a five-year, three-year, and one-year basis.

(2) Portfolio return comparisons by asset class that compare investment returns with an alternative theoretical portfolio of comparable funds, universes, and indexes.

(e) The use of outside investment advisers and managers, including costs and fees.

(f) A description of the system's investments at cost and market value held in the state.

(g) A review of the system's custodial relationship and daily cash management, purchases, sales, turnover, private placements, soft dollar purchses, and transaction costs such as commissions, dealer spreads, and accommodations.

(Added by Stats. 1945, Ch. 123; by Stats. 1967, Ch. 1510; amended and renumbered by Stats. 1981, Ch. 388; amended by Stats. 1988, Ch. 902; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 951.)

§ 20233. Repealed

(Repealed by Stats. 2012, Ch. 728.)

§ 20235. Quarterly Asset Review

(a) The board shall submit a review of this system's assets to the Legislature on a quarterly basis. The report shall also be made available to all contracting agencies. The report shall do both of the following:

(1) Discuss this system's portfolio and contain the following information:

(A) Concentration, current holdings at cost and market value, of equities.

(B) Concentration, current holdings at cost and market value, of fixed income instruments.

(C) Current holdings at cost and market value of real estate equities.

(D) Current holdings at cost and market value of mortgages.

(E) Options and forward commitments.

(F) Cash and cash equivalents.

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(2) Disclose the following information on the rate of return of the fund by type of asset:

(A) Time-weighted return on a five-year, three-year, and one-year basis.

(B) Dollar-weighted return on a five-year, three-year, and one-year basis.

(C) Summary of performance of an alternative theoretical portfolio containing all investments and performance of comparable universes and other indexes.

(b) Upon written request from a contracting agency that does not participate in a risk pool, the board shall submit additional quarterly reports to the contracting agency as described in this subdivision. For the first quarter of the fiscal year, the report shall be submitted within 120 days after the end of the quarter and shall contain the agency's beginning balance for the fiscal year. For the second and third quarters of the fiscal year, the report shall be submitted to the contracting agency within 90 days after the end of the quarter. For the fourth quarter of the fiscal year, the report shall be submitted within 180 days after the end of the quarter and shall contain the agency's balance as of the end of the fiscal year. The report shall include, but need not be limited to, the following:

(1) All contributions made to the system by the contracting agency and its employees. The contributions shall be reported as the amounts paid and the amounts due from the contracting agency for both employer contributions and employee contributions.

(2) All benefits paid by the system to members of the contracting agency and their survivors and beneficiaries, including payments on account of pension, death, and disability benefits, and withdrawals of contributions. The benefits shall be reported as the total monthly allowances paid to retirees, survivors, and beneficiaries; the amount of total refunds paid; and the amount of any other lump sums paid.

(3) An amount that represents any miscellaneous adjustments, including transfers in and out.

(4) That quarter's portion of the agency's estimated share of the system's administrative costs that shall be assessed at the end of the fiscal year.

(5) The rate of return for the system during the quarter as reported to the board by the investment committee.

(6) The estimated interest applied to the agency's account as determined by the system. For purposes of this paragraph, the "estimated interest applied" means the estimate of the annual net earnings, as defined in Section 20052, and is subject to adjustment at the end of the fiscal year based on the actual dollar-weighted amount of investment return that shall be credited to the agency's account for the fiscal year. The report for the fourth quarter of the fiscal year shall also include the actual dollar-weighted amount of investment return for the fiscal year that shall be credited to the contracting agency's account.

(c) Upon written request from a contracting agency that participates in a risk pool, the board shall submit to the contracting agency quarterly reports that reflect the total contributions made to the system by agencies in the risk pool, the total

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benefits paid by the system with respect to the risk pool, the total estimated share of administrative costs for the risk pool, and the total estimated share of investment returns for the risk pool.

(d) A contracting agency requesting quarterly reports pursuant to subdivision (b) or (c) shall pay a fee, in an amount determined by the board, not to exceed one thousand five hundred dollars ($1,500) quarterly per agency while the manual process of collecting the information is in use.

(e) Any report received by a contracting agency pursuant to this section shall be made available by the agency to any employee organization that represents the agency's employees and that requests a copy of the report.

(Added by Stats. 1984, Ch. 1503; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 848; by Stats. 2004, Ch. 183; and by Stats. 2012, Ch. 833.)

§ 20236. Analysis of Legislative Bills

(a) The board shall provide the Legislature with an analysis of the asset and liability implications of each bill that would affect the investment strategy of this system, the funding of this system, or the benefit structure of this system. The analysis shall include an explanation of the methodology employed and the assumptions used in its preparation. Neither fiscal committee of the Legislature shall hear any such bill until the analysis has been provided to the committee.

(b) There is hereby continuously appropriated, without regard to fiscal years, from the retirement fund, an amount sufficient to pay all costs arising from subdivision (a), but not to exceed fifty thousand dollars ($50,000) in any one fiscal year.

(Added by Stats. 1984, Ch. 1502; renumbered by Stats. 1995, Ch. 379.)

§ 20237. Repealed

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

§ 20238. Repealed

(Repealed by Stats. 2012, Ch. 728.)

ARTICLE 8. SUBROGATION

§ 20250. Right of Subrogation

The provisions of this article shall be deemed to create a right of subrogation only to amounts paid as disability retirement allowances and special death benefits.

(Added by Stats. 1968, Ch. 687; amended by Stats. 1977, Ch. 394; renumbered by Stats. 1995, Ch. 379.)

§ 20251. "State Fund"

As used in this article, "state fund" means the State Compensation Insurance Fund.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20252. Recovery from Third Parties

If benefits are payable under this part because of an injury to or the death of a member and the injury or death is the proximate consequence of the act of a person other than his or her employer (the state or the employing contracting agency), the board may on behalf of this system recover from that person an amount that is the lesser of the following:

(1) An amount that is equal to one-half of the actuarial equivalent of the benefits for which this system is liable because of such injury or death.

(2) An amount that is equal to one-half of the remaining balance of the amount recovered after allowance of that amount that the employer or its insurance carrier have paid or become obligated to pay.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1965, Ch. 1340; renumbered by Stats. 1995, Ch. 379.)

§ 20253. Contract for Recovery from Third Parties

The board may contract with the state fund or the Attorney General for the recovery on behalf of this system of any amounts that the board might recover from third persons under this article or Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, or that an insurer might recover under Section 11662 of the Insurance Code, or otherwise.

Under the contract, the state fund, in its own name or in the name of the board, or the Attorney General for the board, may, to recover the amounts regardless of whether the injury or death is industrial, commence and prosecute actions, file liens, or intervene in court proceedings all in the same manner and to the same extent, provided in Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, for the state fund or employer, except that the recovery shall not be made from benefits payable under this part because of the injury or death. The state fund or the Attorney General, as the case may be, may compromise claims before or after commencement of suit or entry of judgment for the amount as may be approved by a person duly authorized by the board for that purpose. The agreed cost of the service and the expense incidental thereto is a proper charge against the retirement fund.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1949, Ch. 1215; by Stats. 1951, Ch. 612; by Stats. 1973, Ch. 389; and by Stats. 1984, Ch. 193; renumbered by Stats. 1995, Ch. 379.)

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§ 20254. Application of Recovered Funds

Any amount recovered by way of subrogation by the employer, workers' compensation insurer or this system shall be applied first to the amounts that the employer or its insurer has paid or become obligated to pay. The balance of the amount recovered as specified in Section 20252 shall be paid to, or retained by, this system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; and by Stats. 1965, Ch. 1340; renumbered by Stats. 1995, Ch. 379.)

§ 20255. Limitations on Commencement of Actions

Actions brought by the board under this article shall be commenced within three years after the liability of this system to pay benefits is fixed. Liability of this system is fixed at the time the board approves the payment of benefits under this part.

(Added by Stats. 1945, Ch. 123; repealed by Stats. 1949, Ch. 298; added by Stats. 1957, Ch. 936, operative 10/1/57; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 9. VALIDATION OF PRIOR ACTS

§ 20260. Prior Acts of October 1, 1953

All computations, payments, and other acts heretofore made or done by the board or its officers and employees are hereby ratified, confirmed, and validated.

(Added by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

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Chapter 3. Membership in System

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ARTICLE 1. COMPULSORY MEMBERSHIP

§ 20280. Applicability of Article

This article does not apply to persons expressly excluded from membership in this system by Article 2 (commencing with Section 20300) and Article 3 (commencing with Section 20320).

(Added by Stats. 1945, Ch. 123; amended by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379.)

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§ 20281. Continuation of Membership

All members of the retirement system immediately prior to the time this part becomes operative continue to be members of this system.

An employee of a contracting agency on the effective date of its contract with the board becomes a member immediately.

Every other employee becomes a member upon his or her entry into employment.

(Added by Stats. 1945, Ch. 123 and Stats. 1953, Ch. 1186; amended by Stats. 1945, Ch. 1224; by Stats. 1946, 1st Ex. Session, Ch. 78; by Stats. 1951, Ch. 612; by Stats. 1955, Ch. 1705; by Stats. 1957, Ch. 2374; by Stats. 1959, Ch. 1036; by Stats. 1961, Ch. 1834, effective 7/18/61; and by Stats. 1963, Ch. 2098, operative 10/1/63; renumbered by Stats. 1995, Ch. 379.)

§ 20281.5. Credit Accrual; Employee Contributions—Twenty-Four Month Delay

(a) Notwithstanding Section 20281, a person who becomes a state miscellaneous member or state industrial member of the system on or after the effective date of this section because the person is first employed by the state and qualifies for membership shall be subject to the provisions of this section.

(b) Members subject to this section shall not accrue credit for service in the system and shall not make employee contributions to the system, including the contributions set forth in Section 20677.4, for employment with the state until the first day of the first pay period commencing 24 months after becoming a member of the system.

(c) Notwithstanding subdivision (a), this section shall not apply to any of the following:

(1) Persons who are already members or annuitants of the system at the time they are first employed by the state.

(2) Employees of the California State University, or the legislative or judicial branch of state government.

(3) Members of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement System, or the University of California Retirement Plan.

(4) Persons who are members of a reciprocal retirement system and whose employment was subject to a reciprocal retirement system within the six months prior to membership in this system.

(5) Persons whose service is not included in the federal system.

(6) Persons who are employed by the Department of the California Highway Patrol as students at the department's training school established pursuant to Section 2262 of the Vehicle Code.

(7) Persons who had ceased to be members pursuant to Section 20340 or 21075.

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(8) Persons who are National Guard members pursuant to Section 20380.5.

(d) A separation of employment does not alter the 24-month period described by subdivision (b). A member who separates from state employment shall remain subject to this section if he or she returns to state employment as a state miscellaneous or state industrial member within that 24-month period.

(e) Any regulations adopted by the board to implement the requirements of this section shall not be subject to the review and approval of the Office of Administrative Law, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. The regulations shall become effective immediately upon filing with the Secretary of State.

(f) This section shall not apply to any person who first becomes a state miscellaneous member or a state industrial member on or after July 1, 2013.

(Added by Stats. 2004, Ch. 214, effective 8/11/04; amended by Stats. 2005, Ch. 328; by Stats. 2007, Ch. 355; by Stats. 2009, Ch. 130; and by Stats. 2012, Ch. 296.)

§ 20282. Military Personnel

All officers, warrant officers, and enlisted men who after October 1, 1961, are placed on full-time active duty with the office of the Adjutant General, pursuant to Sections 142, 167, 321, 340 and 551 of the Military and Veterans Code, shall become members in the manner and under the same conditions as under this article apply to other state employees. The retirement benefit provisions of the Military and Veterans Code shall not apply to those persons. This section shall not apply to the Adjutant General or the Assistant Adjutant General.

(Added by Stats. 1961, Ch. 2174, operative 10/1/61; renumbered by Stats. 1995, Ch. 379.)

§ 20283. Employer Penalty for Failure to Enroll Employee

(a) Any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears costs for member contributions and administrative costs of five hundred dollars ($500) per member as a reimbursement to this system's current year budget.

(b) An employer shall not pass on to an employee any costs assessed pursuant to subdivision (a).

(Added by Stats. 1993, Ch. 1297, operative 7/1/94; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130.)

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§ 20284. Status of Contract Employees—Service Prior to October 1, 1945

When any person who is an employee of the state within the meaning of Section 20028 is assigned to the performance of work for which his or her compensation is paid, pursuant to statute or duly authorized contract entered into by the state or the state agency by which the person is employed, out of funds not directly controlled by the state, that person shall continue to be an "employee" of the state for the purposes of this part during the time he or she is assigned to the performance of that work, and the service rendered by him or her during that assignment shall be "state service," notwithstanding Sections 20028 and 20069 relating to payment of compensation.

(Added by Stats. 1945, Ch. 852; amended by Stats. 1947, Ch. 1140, by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20285. Effect of Assumption of State Function by City or County

Any employee, who was a state member in employment in a function at the time of the assumption of the function by a city and county and became a local member on the date of the assumption and in employment of the city and county in that function under the contract with the city and county, shall continue in membership thereafter so long as he or she continues, without a break exceeding 30 days, in that employment or any other employment, falling in the same membership category under this system, of the city and county or any other public entity in which he or she would be a member of the retirement system of the city and county except for this section. Those employees shall be excluded from membership in the city and county retirement system in that employment. A member electing membership in this system shall make the contributions to this system that would have been required had he or she been a member while in that employment.

(Added by Stats. 1975, Ch. 99, effective 6/3/75; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

ARTICLE 2. EXCLUSIONS FROM MEMBERSHIP

§ 20300. Excluded Persons

The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for the service they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges and persons employed as student aides in the special schools of the State Department of Education and in the public schools of the state.

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(d) Persons employed as teacher assistants pursuant to Section 44926 of the Education Code.

(e) Participants, other than staff officers and employees, in the California Conservation Corps.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, Section 1501 et seq. of Title 29 of the United States Code. This subdivision does not apply with respect to persons employed in job classes that provide eligibility for patrol or safety membership or to the career staff employees of an employer.

(g) All persons who are members in any teachers' retirement system, as to the service in which they are members of any teachers' retirement system.

(h) Except as otherwise provided in this part, persons rendering professional legal services to a city, other than the person holding the office of city attorney, the office of assistant city attorney, or an established position of deputy city attorney.

(i) A person serving the university as a teacher in university extension, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(j) A person serving a California State University as a teacher in extension service, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(k) A teacher or academic employee of the university or any California State University who is otherwise fully employed and who serves as a teacher or in an academic capacity in any summer session or intersession, for which he or she receives compensation specifically attributable to that service in summer session or intersession, with respect to that service.

(l) A person who is employed under the California Senate Fellows, the Assembly Fellowship, the Judicial Administration Fellowship, or the Executive Fellowship programs.

(m) Board members of the State Compensation Insurance Fund, including those appointed by the Governor.

(Added by Stats. 1945, Ch. 123; by Stats. 1949, Ch. 1215; by Stats. 1951, Ch. 613; by Stats. 1953, Ch. 1186; by Stats. 1971, Ch. 1549; by Stats. 1991, Ch. 892, effective 10/14/91; amended by Stats. 1947, Ch. 1140; by Stats. 1949, Ch. 298; by Stats. 1955, Ch. 1411 and Ch. 1817; by Stats. 1957, Ch. 241; by Stats. 1959, Ch. 1036 and Ch. 1716; by Stats. 1961, Ch. 878, effective 6/26/61; by Stats. 1976, Ch. 1321; by Stats. 1977, Ch. 251, effective 7/8/77; by Stats. 1978, Ch. 785, effective 9/15/78; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1985, Ch. 176, effective 7/8/85; and by Stats. 1987, Ch. 1452; by Stats. 1993, Ch. 1297, operative 7/1/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1002; by Stats. 2001, Ch. 159; by Stats. 2002, Ch. 56; and by Stats. 2008, Ch. 322.)

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§ 20301. University Employees

Except as otherwise provided in this section, any person who on October 1, 1963, is employed by the university, and is a member of any retirement system maintained by the university, or who after that date enters university employment, shall be excluded from membership in this system.

A university member who is separated from university employment due to layoff and who is reemployed by the university shall have the right to elect, in accordance with regulations of the board of regents, membership in this system in lieu of membership in any retirement system maintained by the university, if written notice of the election is filed with this system within 30 days after his or her reemployment.

Any member who is employed as a member of the police department or fire department of the university and who elects, in accordance with regulations of the board of regents, to become a sworn officer member of a retirement system of the university in that employment shall be excluded from membership in this system in that employment after the date upon which he or she becomes a member of the university system. The election shall not constitute a permanent separation from state service for purposes of a right to refund of accumulated contributions, but shall constitute a discontinuance of employment as a member of this system and entry into employment as a member of the university system within the meaning of Section 20895.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1971, Ch. 1413; by Stats. 1973, Ch. 794; by Stats. 1974, Ch. 1440; by Stats. 1978, Ch. 1180, effective 9/26/78; by Stats. 1980, Ch. 1264, effective 9/30/80; and by Stats. 1981, Ch. 737; repealed and added by Stats. 1995, Ch. 379.)

§ 20303. Members of Other Retirement Systems

(a) Persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government, or any political subdivision thereof and who are receiving credit in the other system for service are, as to that service, excluded from this system.

(b) (1) For the purpose of this section only, persons who are receiving pensions, retirement allowances, or other payments, from any source whatever, because of service rendered to an employer other than the state and while they were not in state service, are not, because of that receipt, members of any other retirement or pension system.

(2) For the purposes of this section only, persons who participate in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) or Chapter 8.6 (commencing with Section 19999.3) of Part 2.6 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, are not, because of that participation, members of any other retirement or pension system.

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(3) For the purposes of this section only, persons who participate in a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of any other retirement or pension system, so long as the contracting agency has received a ruling from the Internal Revenue Service stating that the money purchase pension plan and trust qualifies under Section 401(a) and furnishes proof thereof upon request by the board.

(4) For the purposes of this section only, persons who participate in a supplemental defined benefit plan maintained by their employer that meets the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of another retirement or pension system, provided that all of the following conditions exist:

(A) The defined benefit plan provided under this part has been designated as the employer's primary plan for the person.

(B) 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 and, upon request, to the board.

(C) 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 part.

(5) For purposes of this section only, a person who elects membership pursuant to Section 20326 is deemed, with respect to service with the California National Guard, not to be a member of any other retirement or pension system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1972, Ch. 1370; by Stats. 1986, Ch. 1411, effective 9/30/86; and by Stats. 1990, Ch. 658, effective 9/12/90; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 474; by Stats. 2004, Ch. 214, effective 8/11/04; and by Stats. 2007, Ch. 355.)

§ 20304. Dual Credit—Social Security Exception

Notwithstanding Sections 20303 and 20894, nothing shall act to prohibit the receipt of credit in this system, nor the payment of benefits relating thereto, for service that is also being credited in the federal system, and persons shall not be excluded from this system as to the service that is being credited in the federal system.

(Added by Stats. 1955, Ch. 1666; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20305. Part-Time Employees

(a) An employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is excluded from this system unless:

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(1) He or she is a member at the time he or she renders that service and is not otherwise excluded pursuant to this article or by a provision of a contract.

(2) His or her position requires regular, part-time service for one year or longer for at least an average of 20 hours a week, or requires service that is equivalent to at least an average of 20 hours a week for one year or longer, unless he or she elects membership pursuant to Section 20325.

(3) His or her employment is, in the opinion of the board, on a seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis, and is compensated and meets one of the following conditions:

(A) The appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months, but full-time employment continues for longer than six months, in which case membership shall be effective not later than the first day of the first pay period of the seventh month of employment.

(B) The person completes 125 days, if employed on a per diem basis or, if employed on other than a per diem basis, completes 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which 125 days or 1,000 hours of service were completed. For purposes of this subdivision, "day" means each eight-hour period of employment worked by an employee paid on a per diem basis so that membership is effective after he or she has completed 1,000 hours of compensated service in a fiscal year.

(C) The person is employed by the Department of Forestry and Fire Protection in one of the positions that provide state safety membership pursuant to Section 20400 or state peace officer/firefighter membership pursuant to Section 20392.

(4) He or she is a temporary faculty member of the California State University and meets one of the following conditions:

(A) He or she works two consecutive semesters or three consecutive quarters at half-time or more, and is not otherwise excluded pursuant to this article, in which case, membership shall be effective with the start of the next consecutive semester or quarter if the appointment requires service of half-time or more.

(B) He or she works two consecutive semesters or three consecutive quarters at a minimum teaching load of six weighted units, and is not otherwise excluded pursuant to this article, in which case membership shall be effective at the start of the next consecutive semester or quarter, but not earlier than July 1, 2004, if the appointment requires service of six weighted units or more. This subparagraph does not apply to faculty members unless provided for in a memorandum of understanding agreed upon, on or after January 1, 2003, pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

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(5) He or she is a member of the Board of Prison Terms, the State Personnel Board, or the State Air Resources Board and elects to become a member pursuant to Section 20320.

(6) He or she is participating in partial service retirement, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6.

(7) He or she is included by specific provision of the board relating to the exclusion of less than full-time employees.

(b) This section shall supersede any contract provision excluding persons in any temporary or seasonal employment basis and shall apply only to persons entering employment on and after January 1, 1975. Except as provided in Section 20502, no contract or contract amendment entered into after January 1, 1981, shall contain any provision excluding persons on an irregular employment basis.

(Amended by Stats. 1945, Ch. 1224; by Stats. 1957, Ch. 936 and Ch. 2143; by Stats. 1959, Ch. 1535; by Stats. 1968, Ch. 449; and by Stats. 1969, Ch. 1227, operative 12/1/69; repealed and added by Stats. 1980, Ch. 1264, effective 9/30/80; amended by Stats. 1983, Ch. 1258, effective 9/30/83; by Stats. 1984, Ch. 801, effective 8/29/84; by Stats. 1988, Ch. 1013; repealed and added by Stats. 1993, Ch. 1168; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 1045; and by Stats. 2009, Ch. 130.)

§ 20306. Part-Time Employee Participation in an Alternate Retirement Plan

(a) Notwithstanding paragraph (1) of subdivision (a) of Section 20305, an employee participating in this system, other than a local safety member, who is credited with less than five years of state service and whose service falls below the minimum service prescribed by paragraph (2) of, or subparagraph (A) or (B) of paragraph (3) of, subdivision (a) of Section 20305 and who is eligible for membership in an alternate retirement plan established or maintained by the county superintendent of schools or the public agency pursuant to Article 1.5 (commencing with Section 53215) of Chapter 2 of Part 1 of Division 2 of Title 5, may participate in that plan in accordance with the following provisions:

(1) Eligibility to participate in an alternate retirement plan for an employee who is employed on or after July 1, 1997, or the effective date of the establishment of an alternate retirement plan, whichever is later, and who is represented by an exclusive bargaining representative shall be determined by the provisions of a memorandum of understanding executed between the public agency and the exclusive bargaining representative of the employee. That memorandum of understanding shall prescribe all of the terms and conditions under which the alternate plan is established including the employer and employee contribution rates.

(2) Eligibility to participate in an alternate retirement plan for an employee who is employed on or after July 1, 1997, or the effective date of the establishment of

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an alternate retirement plan, whichever is later, and who is not represented by an exclusive bargaining representative shall be determined by the public agency.

(3) Eligibility to participate in an alternate retirement plan established prior to July 1, 1997, for an employee who is employed prior to that date, or for plans established on or after July 1, 1997, for an employee who is employed prior to the date the plan is established, shall be determined by the employee in accordance with the following election procedures:

(A) The employer shall make available to each employee prior to October 1, 1997, or at least 90 days prior to the proposed effective date of the alternate retirement plan, whichever is later, information describing the employee's rights and responsibilities as a participant in either this system or the alternate retirement plan offered by the employer and describing the benefits provided by this system and that alternate retirement plan. The information shall include all of the terms and conditions under which the system and the alternate retirement plan are established including the employer and employee contribution rates.

(B) An employee who fails to make an election prior to January 1, 1998, or 90 days after being given the election opportunity, whichever is later, shall be informed by the employer by certified mail that the failure to make that election has been deemed an election to participate in the alternate retirement plan whenever his or her employment fall below the requirements prescribed by Section 20305.

(C) The employer shall maintain in its files a written acknowledgment by the employee that the employee received the information required under this section within the specified timeframe and shall maintain election results and election forms of employees.

(D) The employer shall notify the system as to the results of election by employees in the manner prescribed by the board.

(b) An employee's participation in the alternate retirement plan shall commence as soon as it is reasonable for this system to determine the member's qualifications pursuant to Section 20305. Employers shall submit all information deemed necessary for this system to make those determinations. Participation in the alternate retirement plan shall continue until the system determines that the employee's employment meets the conditions for membership in this system, whereupon the employee shall reenter membership in this system.

(c) Each county superintendent of schools may make the school districts in the county responsible for any administrative acts which may be necessary to implement this section. Any cost incurred by a county superintendent of schools in complying with this section shall be reimbursed on a proportional basis by those school districts in the county participating in an alternative retirement system.

(Added by Stats. 1996, Ch. 1164.)

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§ 20309. Election to Retain Coverage by this System

(a) A member of the system described in subdivision (b) who subsequently is employed to perform service subject to coverage by the Defined Benefit Program of the State Teachers' Retirement Plan, may elect to retain coverage by this system for that subsequent service. An election to retain coverage under this system shall be submitted in writing by the member to the system on a form prescribed by the system, and a copy of the election shall be submitted to the State Teachers' Retirement System, within 60 days after the member's date of hire to perform service that requires membership in the Defined Benefit Program of the State Teachers' Retirement Plan. A member who elects to retain coverage under this system pursuant to this section shall be deemed to be a school member while employed by a school employer.

(b) This section shall apply to a member of the system who either (1) is employed by a school employer, the Board of Governors of the California Community Colleges, or the State Department of Education or (2) has at least five years of credited service under this system.

(c) Any election made pursuant to this section shall become effective as of the first day of employment in the position that qualified the member to make an election.

(Added by Stats. 1997, Ch. 838; amended by Stats. 2000, Ch. 880; and by Stats. 2001, Ch. 77.)

§ 20309.5. Eligibility for Coverage by the Defined Benefit Program of the State Teachers' Retirement Plan

(a) Any person who is a member of the Defined Benefit Program of the State Teachers' Retirement Plan and who subsequently became employed, on or after July 1, 1991, and who continues to be employed by the state to perform service that requires membership in the Public Employees' Retirement System under Section 21071 and who meets the requirements of subdivision (b) of Section 22508.6 of the Education Code may elect to have his or her state service subject to coverage by the Defined Benefit Program of the State Teachers' Retirement Plan and excluded from coverage by the Public Employees' Retirement System.

(b) Upon an election being made pursuant to subdivision (a), the Public Employees' Retirement System shall transfer to the Teachers' Retirement Fund an amount equal to the actuarial accrued liability of the system for the service rendered by the person making the election on or after July 1, 1991, to the date of the election, inclusive. The actuarial accrued liability shall be calculated based on the actuarial assumptions of the system for the most recently completed actuarial valuation as of the date of the election.

(Added by Stats. 2000, Ch. 402, effective 9/11/00.)

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ARTICLE 3. OPTIONAL MEMBERSHIP

§ 20320. Persons Appointed by Governor

(a) A person directly appointed by the Governor, without the nomination of any officer or board, or directly appointed by the Attorney General, Lieutenant Governor, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction exempt from civil service under Article VII of the California Constitution, except those appointed pursuant to subdivision (i) of Section 4 thereof, is excluded from membership in this system unless he or she files with the board an election in writing to become a member.

(b) Upon electing to become a member, the person may further elect at any time prior to retirement to receive service credit for his or her prior, excluded state service by making the contributions as specified in Sections 21050 and 21051.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1953, Ch. 1186; by Stats. 1963, Ch. 1918; by Stats. 1972, Ch. 626, effective 8/9/72; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1980, Ch. 481; by Stats. 1983, Ch. 773; and by Stats. 1988, Ch. 331, effective 7/14/88; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 20321. Persons Appointed to Office of Adjutant General or Assistant Adjutant General

Persons appointed to the office of the Adjutant General or Assistant Adjutant General after October 1, 1961, shall have rights to membership as provided in this article for other persons appointed by the Governor and shall have no rights under the retirement benefit provisions of the Military and Veterans Code, except that persons entitled to retirement benefits under the Military and Veterans Code appointed to the office of the Adjutant General or Assistant Adjutant General shall continue to receive military retirement benefits during their term of office.

(Added by Stats. 1961, Ch. 2174; amended by Stats. 1963, Ch. 1430; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1987, Ch. 1164; renumbered by Stats. 1995, Ch. 379.)

§ 20322. Elective Officers; Membership Election; Exclusion Beginning July 1, 1994

(a) An elective officer is excluded from membership in this system unless the officer files with the board an election in writing to become a member. Upon electing to become a member, the officer may further elect at any time prior to retirement to receive service credit for his or her prior, excluded service by making the contributions as specified in Sections 21050 and 21051.

(b) As used in this part, "elective officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of

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the Legislature, and any appointive officer of a city or county occupying a fixed term of office, as well as officers of the state or contracting agencies elected by the people, and persons elected to a city council or a county board of supervisors.

(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers, other than city or county officers, who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. For city or county elected or appointed officers, this exclusion shall only apply to those officers who are first elected or appointed to an office on or after January 1, 1997, or who are elected or appointed to a term of office not consecutive with the term of office held on December 31, 1996. This exclusion shall not apply to persons elected to a city council or county board of supervisors.

(d) Any person holding the office of city attorney or the office of assistant city attorney, whether employed, appointed, or elected, is excluded from the definition of "elective officer" as defined in subdivision (b). This subdivision shall apply only to persons first employed, elected, or appointed on or after July 1, 1994, or following any break in state service while serving in the office if the office was held on June 30, 1994.

(e) In accordance with Section 20125, the board shall be the sole judge of which elected or appointed positions qualify the incumbent as an "elective officer" in this system under this section.

(f) Notwithstanding any other provision of law, with respect to elective officers of contracting agencies, payment by a contracting agency of employer contributions and any other amounts for employer paid benefits under this system shall not be construed as receipt of salary or compensation by the elective officer for purposes of any statutory salary or compensation limitation.

(Added by Stats. 1945, Ch. 123 and by Stats. 1974, Ch. 1378; amended by Stats. 1945, Ch. 1224; by Stats. 1949, Ch. 1029; by Stats. 1953, Ch. 1186; by Stats. 1957, Ch. 936; by Stats. 1971, Ch. 1549; by Stats. 1983, Ch. 773; by Stats. 1988, Ch. 331, effective 7/14/88; and by Stats. 1993, Ch. 1297, operative 7/1/94; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 378; by Stats. 1998, Ch. 678; and by Stats. 2000, Ch. 489.)

§ 20323. Veterans' Home Member Employees

For the purposes of this section "veteran" means a member of the Veterans' Home of California.

Any veteran who is employed by the Veterans' Home of California is excluded from membership in this system unless he or she files, or has filed prior to

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October 1, 1959, an election in writing to become a member. The election shall be filed within 90 days after notice of eligibility to participate from this system, and shall not be revocable.

(Added by Stats. 1947, Ch. 1396; amended by Stats. 1959, Ch. 552; and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; renumbered by Stats. 1995, Ch. 379.)

§ 20324. Legislative Employees

(a) An employee of the Senate or the Assembly, or the respective committees thereof, whose salaries or wages are paid from the Senate Operating Fund or the Assembly Operating Fund or the Operating Funds of the Assembly and Senate, shall be deemed a "legislative employee." A legislative employee is excluded from membership in this system unless he or she files with the board an election in writing to become a member. The election shall not be required of a legislative employee who was a member of this system on October 1, 1963.

(b) Upon electing to become a member, a legislative employee may further elect at any time prior to retirement to receive service credit for his or her prior, excluded legislative service and he or she shall have the option as to how much of that prior legislative service is to be credited. The legislative employee shall make contributions to this system as specified in Sections 21050 and 21051 for the previous service as a legislative employee for which he or she desires to receive service credit.

(Added by Stats. 1963, Ch. 1581; amended by Stats. 1970, Ch. 346; and by Stats. 1980, Ch. 481; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 20325. Part-Time School Employees

(a) A county superintendent of schools, a school district, a community college district, or a contracting agency, whose respective resolution or contract contains an election to be subject to this section, may offer to its part-time employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 the option to elect at any time to become a member by filing an election in writing with the board to become a member. An election by a county superintendent of schools, a school district, or a community college district to be subject to this section shall subject all of its employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 to mandatory social security coverage but shall not, in and of itself, affect any other county superintendent of schools, school district, or community college district with respect to any social security coverage of employees of the other county superintendent of schools, school district, or community college district.

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(b) If a part-time employee elects to become a member, he or she may further elect at any time prior to retirement to receive service credit for past service that was less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 by making the contributions as specified in Sections 21050 and 21051.

(c) This section shall not apply to those part-time employees of any contracting agency nor to any contracting agency until the contracting agency elects to be subject to this section by amendment to its contract with the board made pursuant to Section 20474 or by express provision in its contract with the board.

(d) This section shall not apply to those part-time employees of any county superintendent of schools or school district or community college district nor to any county superintendent of schools or school district or community college district until the county superintendent of schools, the school district, or community college district, elects to be subject to this section by adopting a resolution to that effect and transmitting that resolution through the county superintendent of schools to the board. Notwithstanding any specified effective date in a resolution, the resolution shall not become effective until it is received by this system.

(Added by Stats. 1988, Ch. 1013; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 20326. California National Guard

(a) Notwithstanding Section 20305, officers, warrant officers, and enlisted personnel of the California National Guard who are not members pursuant to Section 20282 are excluded from membership in this system unless those officers, warrant officers, and enlisted personnel file a written election with the board to become a member.

(b) The Military Department shall report to the board any employment and other information requested by the board for purposes of this section.

(Added by Stats. 2007, Ch. 355.)

§ 20327. California National Guard—Membership Cancellation

(a) Notwithstanding any other provision of this part, a National Guard member may, at any time and on a prospective basis, cancel his or her election of membership in this system by filing a written notice of cancellation with the board.

(b) If a National Guard member cancels his or her election of membership, that National Guard member shall not be required to pay contributions as described in Section 20772.5, effective as of the date the written notice of cancellation was filed with the board.

(c) A National Guard member may only elect to cancel his or her membership pursuant to this section one time.

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(d) This section shall remain operative until subsequent provisions of law delete the requirement that National Guard members pay the employer contributions as a condition of membership in this system.

(Added by Stats. 2007, Ch. 355.)

ARTICLE 4. TERMINATION OF MEMBERSHIP

§ 20340. Criteria for Termination of Membership

A person ceases to be a member:

(a) Upon retirement, except while participating in reduced worktime for partial service retirement.

(b) If he or she is paid his or her normal contributions, unless payment of contributions is the result of an election pursuant to paragraph (1) of subdivision (b) of Section 21070, or unless, after reducing the member's credited service by the service applicable to the contributions being withdrawn, the member meets the requirements of Section 21075 or if he or she is paid a portion of his or her normal contributions where more than one payment is made, or these contributions are held pursuant to Section 21500. For the purposes of this subdivision, deposit in the United States mail of a warrant drawn in favor of a member, addressed to the latest address of the member on file in the office of this system, electronic fund transfer to the person's bank, savings and loan association, or credit union account, constitutes payment to the person of the amount for which the warrant is drawn or electronically transferred.

(c) If the member has less than five years of service credit, or less than 10 years of service credit if the member is subject to Section 21076 or 21076.5, and no accumulated contributions in the retirement fund at the time of termination of service, unless the member establishes membership in the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement System, or the University of California Retirement Plan, or establishes reciprocity with a reciprocal retirement system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140, operative 10/1/47; by Stats. 1953, Ch. 1186, operative 10/1/53; by Stats. 1971, Ch. 170, effective 6/21/71; by Stats. 1974, Ch. 390; by Stats. 1980, Ch. 481; by Stats. 1982, Ch. 1231; by Stats. 1983, Ch. 639, effective 9/1/83, and Ch. 1258, effective 9/30/83, operative 1/1/84; by Stats. 1984, Ch. 674, effective 8/18/84; by Stats. 1986, Ch. 199, effective 6/27/86; and by Stats. 1987, Ch. 1164; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 214, effective 8/11/04; by Stats. 2005, Ch. 328; and by Stats. 2014, Ch. 237.)

§ 20341. Criminal Charges

When any state member is charged by indictment with the commission of any felony involving the accepting or giving, or offering to accept or give, any bribe,

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the embezzlement of public money, extortion, theft of public money, perjury, or conspiracy to commit any of those crimes, arising directly out of his or her official duties, and is a fugitive from justice, the board shall conduct an investigation and shall hold a hearing for the purpose of determining whether, in the light of all factors, the offense charged is of such a nature as to justify suspension of his or her membership in this system. If the board so determines, he or she shall be suspended from membership in this system while the charge is pending and until final disposition of the charge. At any time during the period of suspension of membership, the person so suspended shall be entitled to withdraw his or her accumulated contributions from this system, and that withdrawal shall constitute an election to terminate membership in this system.

(Added by Stats. 1959, Ch. 2162; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20342. Military Service

Until his or her return to state service any member absent on military service may resign from this system.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20343. Public Officials—Forfeiture of Service

Notwithstanding Section 21259, 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.)

ARTICLE 5. RECIPROCITY

§ 20350. Concurrent Retirement

Notwithstanding Section 20638, if a member on deferred retirement from this system is eligible to retire for service from a reciprocal retirement system and does so retire prior to the time the member becomes entitled to retire under this system, his or her retirement shall be deemed a concurrent retirement for purposes of computing final compensation under Section 20638.

(Added by Stats. 1978, Ch. 810, effective 9/18/78, operative 1/1/79; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906, and by Stats. 1999, Ch. 785.)

§ 20351. County Retirement System

The provisions of this part extending rights to a member of this system, or subjecting him or her to any limitation by reason of his or her membership in a county retirement system, shall apply in like manner and under like conditions to a

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member of this system 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 and that system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in this system and with respect to which the governing body of the city, city and county or public agency and the board have entered into agreement pursuant to this section. An agreement under this section shall provide that the governing body shall modify its retirement system to conform to any amendments to this part affecting a member's right because of membership in a county retirement system, and may contain other provisions consistent with this section as the board deems appropriate. This section shall apply only to a member whose termination and entry into employment resulting in a change in membership from this system to the other system or from the other system to this system occurred after the acceptance by the board or after the effective date specified in the agreement. However, provisions relating to computation of final compensation shall apply to any other member if the provision would have applied had the termination and entry into employment occurred after the acceptance or determination by the board.

(Added by Stats. 1969, Ch. 1007, amended by Stats. 1970, Ch. 837; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20352. Fire District Employees

The provisions of this part extending rights to a member of this system or subjecting him or her to any limitation, by reason of his or her membership in a county retirement system shall also apply to members who terminated state employment and became an employee of a fire district within six months of the termination, and who were employees of the district at the time that the district became subject to the county retirement system.

This section shall only be operative with respect to a county where the board of supervisors has made Section 31840.5 applicable in that county.

(Added by Stats. 1986, Ch. 1458, effective 9/30/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20353. Reciprocal Public Agency Retirement Systems

Any public agency that has pursuant to the provisions of Section 20351 entered into an agreement to establish a reciprocal retirement system with this system shall be deemed to have obtained the same rights and limitations with respect to all other public agencies who have entered into those agreements and established reciprocity as well as with respect to county retirement systems and under Chapter

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2 (commencing with Section 45300) of Division 5 of Title 4 that have established reciprocity with this system pursuant to Section 20351.

(Added by Stats. 1973, Ch. 378; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20354. County Retirement Systems—Denial of Permanent Position—1971-1972

The provisions of this part extending rights to a member of this system by reason of his or her membership in a county 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.

(Added by Stats. 1974, Ch. 1029; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20355. Conditional Employment Period—Six Months—Beginning 1976

Wherever in this part the rights of a member, because of membership in another retirement system, are conditioned upon employment within 90 days of termination of membership in this system or another retirement system, with respect to that employment that occurs on and after January 1, 1976, the 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.

(Added by Stats. 1975, Ch. 526; amended by Stats. 1976, Ch. 1115 and Ch. 1420; renumbered by Stats. 1995, Ch. 379.)

§ 20356. Conditional Employment Period—Local Elective Official—One Year—Beginning 1977

Whenever in this part the rights of a local member, because of membership in another retirement system, are conditioned upon employment within six months of termination of membership in this system or another retirement system, the period shall be one year rather than six months if the local member was an elective officer and becomes a member of another retirement system upon commencement of service in another elective office on and after January 1, 1977.

This section shall not apply unless the other employer in a reciprocal system elected a similar provision, nor shall it apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to

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the provisions of this section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1976, Ch. 1315; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

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ARTICLE 1. GENERAL PROVISIONS

§ 20370. "Member"

(a) "Member" means an employee who has qualified for membership in this system and on whose behalf an employer has become obligated to pay contributions.

(b) "State member" includes:

(1) State miscellaneous members.

(2) University members.

(3) Patrol members.

(4) State safety members.

(5) State industrial members.

(6) State peace officer/firefighter members.

(7) National Guard members as defined in Section 20380.5.

(c) "Local member" includes:

(1) Local miscellaneous members.

(2) Local safety members.

(d) "School member" includes all employees within the jurisdiction of a school employer, other than local police officers, school safety members and members included in a risk pool.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1421; by Stats. 1951, Ch. 589 and Ch. 1740; by Stats. 1961, Ch. 624; by Stats. 1972, Ch. 1098; by Stats. 1974, Ch. 1439; by Stats. 1975, Ch. 233; by Stats. 1979, Ch. 1110,

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effective 9/28/79, operative 1/1/80; by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; by Stats. 1984, Ch. 280, effective 7/3/84; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 1133; and by Stats. 2007, Ch. 355.)

§ 20371. "Member Classification"

"Member classification" means either of the following:

(a) Miscellaneous member classification, which includes state miscellaneous members, National Guard members, university members, local miscellaneous members, state industrial members, and school members.

(b) Safety member classification, which includes patrol members, state peace officer/firefighter members, state safety members, and local safety members.

(Added by Stats.1983, Ch. 909; amended by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2007, Ch. 355.)

ARTICLE 2. MISCELLANEOUS MEMBER CLASSIFICATION

§ 20380. "State Miscellaneous Member"

"State miscellaneous member" includes all members employed by the state and university, except National Guard, industrial, patrol, state peace officer/firefighter, and state safety members.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1421; by Stats. 1951, Ch. 589 and Ch. 1740; by Stats. 1972, Ch. 1098, operative 4/1/73; by Stats. 1980, Ch. 481; and by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2007, Ch. 355.)

§ 20380.5. "National Guard Member"

"National Guard member" means a person who elects to become a member of this system as described in Section 20326. Except as otherwise provided, the provisions of this part applicable to state miscellaneous members shall apply to National Guard members.

(Added by Stats. 2007, Ch. 355.)

§ 20381. "University Member"

"University member" includes all members who are employees of the university.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

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§ 20382. "State Industrial Member"

"State industrial member" includes all state employees appointed by the Governor or by the Director of Corrections or the Board of Prison Terms or the Department of the Youth Authority or the Youthful Offender Board and employed in the state prisons or facilities of the Department of Corrections or the Department of the Youth Authority, or employed in the Division of Adult Paroles as Chief, deputy chief agents, or officers, and all parole agents or officers appointed by the Board of Prison Terms under the State Civil Service Act, any parole agents or officers appointed by the Board of Trustees of the California Institution for Women, the members of the Board of Prison Terms, and the members of the Board of Trustees of the California Institution for Women except employees who are state safety members or state peace officer/firefighter members.

Except as expressly otherwise provided, the provisions of this part applicable to state miscellaneous members apply to state industrial members.

The provisions of this part providing industrial death and disability benefits to state industrial members shall also apply to any other state employee whose death or disability results from an injury which is a direct consequence of a violent act perpetrated on his or her person by an inmate of a state prison, correctional school or facility of the Department of Corrections or the Department of the Youth Authority or a parolee therefrom subject to the same conditions prescribed by Section 20048.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 365; by Stats. 1955, Ch. 1705 and Ch. 1713; by Stats. 1959, Ch. 1535; by Stats. 1970, Ch. 1600; by Stats. 1974, Ch. 1439; by Stats. 1979, Ch. 1110, effective 9/27/79, operative 1/1/80; by Stats. 1980, Ch. 46, effective 3/27/80, operative 1/1/80; by Stats. 1980, Ch. 481; and by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 20383. "Local Miscellaneous Member"

"Local miscellaneous member" includes all employees of a county office of education, school district, or community college district who are included in a risk pool and all employees of a contracting agency who have by contract been included within this system, except local safety members.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1961, Ch. 624, and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 1133.)

ARTICLE 3. SAFETY MEMBER CLASSIFICATION—STATE

§ 20390. "Patrol Member"

(a) "Patrol member" includes all members employed in the Department of the California Highway Patrol or by a county in connection with its highway patrol function, respectively, whose principal duties consist of active law enforcement service, except 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 law enforcement service, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service.

(b) "Patrol member" does not include employees of the Department of the California Highway Patrol who are designated as peace officers by the Commissioner of the California Highway Patrol under subdivision (a) of Section 2250.1 of the Vehicle Code.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 305.)

§ 20391. "State Peace Officer/Firefighter Member"—Investigators

"State peace officer/firefighter member" means:

(a) All persons in the Board of Parole Hearings, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Care Services, the Department of Toxic Substances Control, the California Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the State Department of State Hospitals, the Department of Motor Vehicles, the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons in the Department of Alcoholic Beverage Control employed with the class title Investigator Trainee, Alcoholic Beverage Control (Class Code 7553), Investigator I, Alcoholic Beverage Control, Range A and B (Class Code 7554), and Investigator II, Alcoholic Beverage Control (Class Code 7555) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons within the Department of Justice who are state employees as defined in subdivision (c) of Section 3513 and who have been designated as peace officers and performing investigative duties.

(d) All persons in the Department of Parks and Recreation employed with the class title of Park Ranger (Intermittent) (Class Code 0984) who have been

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designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(e) All persons in the Franchise Tax Board who have been designated as peace officers in subdivision (s) of Section 830.3 of the Penal Code.

(f) A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service included in the federal system.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1984, Ch. 1320, effective 9/24/84; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555; by Stats. 1999, Ch. 785; by Stats. 2012, Ch. 440; and by Stats. 2013, Ch. 76.)

§ 20392. "State Peace Officer/Firefighter Member"—Various Classes

"State peace officer/firefighter member" also includes officers and employees with the following class titles:

Class	Classification
6875	Air Operations Officer I
1056	Air Operations Officer II
1053	Air Operations Officer III
6877	Air Operations Officer I (Maintenance)
6882	Air Operations Officer II (Maintenance)
1050	Air Operations Officer III (Maintenance)
8997	Arson and Bomb Investigator
9694	Board Coordinating Parole Agent, Youthful Offender Parole Board
9904	Correctional Counselor I
9903	Correctional Counselor II
9662	Correctional Officer
9911	Case Work Specialist, Youth Authority
9013	Deputy State Fire Marshal III (Specialist)
9086	Deputy State Fire Marshal
9010	Deputy State Fire Marshal III (Supervisor)
1077	Fire Apparatus Engineer
1095	Fire Captain
1072	Fire Control Aid
8979	Firefighter
1083	Firefighter I

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Class	Classification
1082	Firefighter II
9001	Firefighter (Correctional Institution)
8990	Firefighter/Security Officer
1047	Fire Prevention Officer I
1049	Fire Prevention Officer II
9090	Fire Service Training Specialist III
8418	Fish and Game Patrol, Lieutenant
8421	Fish and Game Warden, Department of Fish and Game
9039	Senior Food and Drug Investigator
9028	Food and Drug Program Specialist
9007	Food Technology Specialist
1060	Forestry Aid
1046	Forestry Pilot (Helicopter)
9579	Group Supervisor/Youth Correctional Officer
9578	Group Supervisor Trainee
6387	Heavy Fire Equipment Operator
1937	Hospital Peace Officer I
8416	Lieutenant Fish and Game Patrol Boat
0992	Lifeguard
8217	Medical Technical Assistant, Correctional Facility
1992	Museum Security Officer I
9701	Parole Agent I, Youth Authority
9765	Parole Agent I, Adult Parole
9696	Parole Agent II, Youth Authority (Specialist)
9763	Parole Agent II, Adult Parole (Supervisor)
9762	Parole Agent II, Adult Parole (Specialist)
8215	Senior Medical Technical Assistant
8359	Sergeant, California State Police
8980	State Fire Marshal Trainee
9723	State Forest Ranger I (Nonsupervisory)
9724	State Forest Ranger II (Nonsupervisory)
0983	State Park Ranger I
8464	State Police Officer
8358	State Security Officer
8989	Captain Firefighter/Security Officer
8410	Warden-Pilot Department of Fish and Game
9581	Youth Counselor/Youth Correctional Counselor

A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of the election

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with the board within 90 days after notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1985. Ch. 176, effective 7/8/85; and by Stats. 1986, Ch. 352; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555; by Stats. 2000, Ch. 1002; and by Stats. 2001, Ch. 159.)

§ 20393. "State Peace Officer/Firefighter Member"—Various Additional Classes

"State peace officer/firefighter member" also means:

(a) All persons in the office of the Secretary of State, office of the Controller, and the Public Employees' Retirement System employed on a full-time permanent basis with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons employed on a full-time permanent basis with the class title of Corporations Investigator (Class Code 8570) or Associate Corporations Investigator (Class Code 8571) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons employed on a full-time permanent basis with the class title of Sergeant, State Fair Police (Class Code 1946), State Fair Police Officer (Class Code 1945), Lottery Agent (Class Code 8602), District Representative I and II, Division of Codes and Standards (Class Codes 8960 and 8958), Deputy Registrar of Contractors I and II (Class Codes 8793 and 8792), Polygraph Examiner, California Department of the Youth Authority (Class Code 8542), Community Services Consultant I (Class Code 9717), or Parole Service Associate (Class Code 9776) who have been designated as peace officers as defined in Sections 830.2, 830.3, and 830.5 of the Penal Code.

(d) All persons employed on a full-time permanent basis with the class title of Forester I (Class Code 1054) and Forester II (Class Code 9721).

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date that this section is applicable to the member by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1986, Ch. 352; by Stats. 1986, Ch. 898; by Stats. 1987, Ch. 1360, effective 9/29/87; and by Stats. 1989, Ch. 1143; repealed

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and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 1999, Ch. 555.)

§ 20394. "State Peace Officer/Firefighter Member"—CSU Police

"State peace officer/firefighter member" also includes the employees of a California State University police department, established pursuant to Section 89560 of the Education Code, who have been designated as peace officers as defined in Section 830.2 of the Penal Code, and who are (a) members represented by Public Safety Unit No. 8, or (b) members excluded from the definition of employee in Section 3562 or are supervisory employees as defined in Section 3580.3, provided that these employees have responsibility for the direct supervision of the state peace officer/firefighter members represented in Public Safety Unit No. 8. The Trustees of the California State University shall notify this system when employees meet these conditions and whenever a state peace officer/firefighter member ceases to meet the conditions.

(Added by Stats. 1986, Ch. 234, effective 7/2/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 1999, Ch. 971.)

§ 20395. "State Peace Officer/Firefighter Member"—Reclassification from State Miscellaneous

"State peace officer/firefighter member" means all members who are full-time permanent employees represented in Corrections Unit No. 6, Protective Services and Public Safety Unit No. 7, and Firefighters Unit No. 8 and are employed in class titles that are designated as peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or are firefighters whose principal duties consist of active firefighting/fire suppression.

A member who is employed in a position that is reclassified from state miscellaneous to state peace officer/firefighter pursuant to this section, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit and the normal rate of contribution by filing a notice of the election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1987, Ch. 1371; and by Stats. 1988, Ch. 160; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555; and by Stats. 2000, Ch. 135 and Ch. 402, effective 9/11/00.)

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§ 20396. "State Peace Officer/Firefighter Member"—CSU Firefighters

(a) "State peace officer/firefighter member" also includes employees of the California State University who are campus fire apparatus engineers and who are members represented by Technical and Support Services Unit No. 9.

(b) This section shall be operative with respect to the employees described in subdivision (a) only if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to the Higher Education Employer-Employee Relations Act Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(Added by Stats. 1987, Ch. 807; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20397. "State Peace Officer/Firefighter Member"—Legislature and Judicial Branch

"State peace officer/firefighter member" also includes:

(a) The Sergeants-at-Arms of each house of the Legislature who have been designated as peace officers in subdivision (a) of Section 830.36 of the Penal Code, excluding the Chief Sergeant-at-Arms.

(b) Bailiffs and security coordinators of the judicial branch who have been designated as peace officers in subdivision (b) of Section 830.36 of the Penal Code.

A member who is reclassified from state miscellaneous to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit and the normal rate of contribution by filing a notice of the election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service included in the federal system.

(Added by Stats. 1990, Ch. 1399; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555; and by Stats. 2000, Ch. 135.)

§ 20398. "State Peace Officer/Firefighter Member"—State Officers and Employees Designated as Peace Officers

"State peace officer/firefighter member" also includes:

(a) (1) State officers and employees designated as peace officers as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and 830.5 of the Penal Code, or a firefighter whose principal duties consist of active firefighting/fire suppression, who is either excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of

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government who is not a member of the civil service, if the majority of his or her duties consists of one of the following:

(A) Responsibility for the direct supervision of state peace officer/firefighter personnel specified in Sections 20391, 20392, 20393, and 20395.

(B) Conducting investigations or audits of investigatory practices and other audits of, or in, the Department of Corrections and Rehabilitation.

(C) Administration of programs of an agency, department, or other organizational unit that is primarily responsible for active law enforcement or active firefighting/fire suppression.

(2) For purposes of this subdivision, "administration" means the actions of the employee designated as a peace officer/firefighter member in a position that is in the direct chain of command over an agency, department, or organizational unit in which the majority of employees are state peace officer/firefighter members as described in Section 20391, 20392, 20393, or 20395.

(b) "State peace officer/firefighter member" shall not include persons whose primary responsibilities are limited to personnel administration, budgeting, public affairs, data processing or information technology, governmental relations, or legal support, or administration or oversight of these responsibilities.

(c) "State peace officer/firefighter member" shall include individuals hired prior to January 1, 2009, who do not meet the criteria in subdivision (a) if those individuals have been continuously employed in positions that were deemed to come within the "state peace officer/firefighter member" classification pursuant to this section prior to January 1, 2009.

(d) "State peace officer/firefighter member" shall include individuals hired prior to April 1, 2011, or the first day of the first pay period following the enactment of the act that added this subdivision if that act is enacted after April 1, 2011, who do not meet the criteria in subdivision (a) if those individuals have been continuously employed in positions in the Office of the Inspector General that were deemed to come within the "state peace officer/firefighter member" classification pursuant to this section prior to April 1, 2011, or prior to the first day of the first pay period following the enactment of the act that added this subdivision if that act is enacted after April 1, 2011.

(e) The Department of Human Resources shall annually determine which classes meet the conditions described in this section and are not classes specified in Sections 20391, 20392, 20393, and 20395, and report its findings to the Legislature and to this system, to be effective July 1 of each year. An agency or department shall not designate a classification as a "state peace officer/firefighter member" classification pursuant to this section without prior approval from the Department of Human Resources.

(f) Members who are reclassified pursuant to this section may file an irrevocable election to remain subject to their prior retirement formula and the corresponding rate of contributions. The Secretary of the Department of Corrections and Rehabilitation may, upon appointment to that office on or after

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January 1, 1999, file an irrevocable election to be subject to the industrial formula and the corresponding rate of contributions. The elections shall be filed within 90 days of notification by the board. Members who so elect shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for the service included in the federal system.

(Added by Stats. 1984, Ch. 280, effective 7/1/84; amended by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1990, Ch. 675; and by Stats. 1993, Ch. 109; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1998, Ch. 678; by Stats. 1999, Ch. 555; by Stats. 2008, Ch. 408; by Stats. 2011, Ch. 10, effective 3/24/11; and by Stats. 2012, Ch. 665.)

§ 20399. "State Safety Member"—Department of Fish and Game

"State safety member," includes persons employed in the Department of Fish and Game in connection with its warden service, whose principal duties consist of active law enforcement service, including immediate supervision by persons employed to perform the duties performed under the titles of Chief and Assistant Chief of Warden Service, and Captain of Patrol Boats, except those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, assistant fish and game warden, or otherwise clearly do not fall within the scope of active law enforcement service, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

(Added by Stats. 1945, Ch. 1421; amended by Stats. 1953, Ch. 1186, and by Stats. 1972, Ch. 1098, operative 4/1/73; renumbered by Stats. 1995, Ch. 379.)

§ 20400. "State Safety Member"—Department of Forestry and Fire Protection

(a) "State safety member" also includes members employed in the Department of Forestry and Fire Protection, whose principal duties consist of active fire suppression or supervision, including, but not limited to, members employed to perform duties now performed under the following titles: State Forester; all classes of State Forest Rangers; all classes of Deputy State Forester; all classes of fire prevention and law enforcement officers; all classes of Foresters; Fire Captain; all classes of Fire Crew Foreman; all classes of Forestry Trainees; all classes of forestry equipment and civil engineers; Forestry Superintendent, Conservation Camps; Fire Apparatus Engineer; Fireman, C.D.F.; Firefighter (Seasonal); Equipment Maintenance Foreman; Heavy Fire Equipment Operator. However, "state safety members" shall not include members employed in classes other than those set forth in this section whose principal duties are clerical or such as otherwise clearly do not fall within the scope of active fire suppression.

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(b) Notwithstanding subdivision (a), "state safety member" shall not include civil engineers hired by the Department of Forestry and Fire Protection on or after January 1, 2000.

(Added by Stats. 1947, Ch. 1133; amended by Stats. 1967, Ch. 1474; by Stats. 1968, Ch. 337; by Stats. 1970, Ch. 131; by Stats. 1972, Ch. 1098, operative 4/1/73; and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 457.)

§ 20401. "State Safety Member"—Department of Justice

"State safety member" means all persons within the Department of Justice designated as peace officers and performing investigative duties and whose principal duties consist of active law enforcement, but excluding clerical personnel or those whose principal duties are that of telephone operator, machinist, mechanic, security officer, or otherwise clearly not within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon to perform duties within the scope of active law enforcement.

(Added by Stats. 1951, Ch. 1740; amended by Stats. 1963, Ch. 2031 and Ch. 2098; by Stats. 1969, Ch. 1540; by Stats. 1972, Ch. 1098 and Ch. 1377; and by Stats. 1973, Ch. 557, effective 1/1/74, operative 7/1/74; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 305.)

§ 20401.5. "State Safety Member"—Department of Justice and Office of the Public Defender

(a) "State safety member" also includes state prosecutors and state public defenders.

(b) For purposes of this part, "state prosecutor" means a state officer or employee who meets all of the following criteria:

(1) He or she is employed by the Department of Justice, Office of the Attorney General.

(2) His or her job classification is Chief Assistant Attorney General, Senior Assistant Attorney General, Supervising Deputy Attorney General, Deputy Attorney General, or any other similar classification or title.

(3) His or her effective date of retirement is on or after the date the state employer and the bargaining unit elect to be subject to this section as provided in subdivision (f).

(c) For purposes of this part, "state public defender" means a state officer or employee who meets all of the following criteria.

(1) He or she is employed by the Office of the State Public Defender.

(2) His or her job classification is State Public Defender, Senior Deputy State Public Defender, Supervising Deputy State Public Defender, Deputy State Public Defender, or any other similar classification or title.

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(3) His or her effective date of retirement is on or after the date the state employer and the bargaining unit elect to be subject to this section as provided in subdivision (f).

(d) Past state miscellaneous service performed by a state prosecutor or state public defender who becomes a state safety member pursuant to this section shall be converted to state safety service if the past service was rendered in a position that has subsequently been reclassified as a state safety position pursuant to this section. Any unfunded liability resulting from this section shall be paid by the employer.

(e) Notwithstanding any other provision of this part, state prosecutors and state public defenders shall be subject to the benefit formula contained in Section 21369.1, or any other benefit formula applicable to state safety members that does not provide benefits greater than those benefits provided under Section 21363.1.

(f) This section does not apply to any officers or employees described in subdivision (b) or (c) who are members of State Bargaining Unit 2 unless and until the state employer and the bargaining unit elect to be subject to this section by amendment to or by express provision in a memorandum of understanding entered into between the parties.

(g) This section does not apply to any officer or employee described in subdivision (b) or (c) who dies prior to the date the state employer and the bargaining unit elect to be subject to this section as provided in subdivision (f).

(Added by Stats. 2002, Ch. 1152.)

§ 20402. "State Safety Member"—San Francisco Port Authority

"State safety member" shall also include those persons while employed by the San Francisco Port Authority prior to their transfer to the San Francisco Port Commission whose principal duties consisted of active law enforcement and who were peace officers, as defined in former Section 830.35 of the Penal Code, as amended by Chapter 460 of the Statutes of 1979, but excluding any person whose principal duties did not clearly fall within the scope of active law enforcement even though the person is subject to occasional call, or is called upon occasionally, to perform duties within the scope of active law enforcement.

(Added by Stats. 1967, Ch. 1553; amended by Stats. 1971, Ch. 1089; and by Stats. 1972, Ch. 266 and Ch. 1098, operative 4/1/73; renumbered by Stats. 1995, Ch. 379.)

§ 20403. "State Safety Member"—Department of Corrections

"State safety member" shall also include officers and employees in (a) the Department of Corrections employed to perform the duties now performed in positions with the following class titles: Deputy Director, Department of Corrections; Deputy Director, Institutions, Camps and Program Services Division; Deputy Director, Parole and Community Services; Warden; Warden–San

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Quentin; Superintendent II and III, Department of Corrections; Deputy Superintendent; Correctional Administrator; Program Administrator, Correctional Institution; all classes of Correctional Program Supervisor; Correctional Captain; Correctional Lieutenant; Correctional Sergeant; Correctional Officer; all classes of Women's Correctional Supervisor; Assistant Deputy Director, Parole and Community Services; all classes of Parole Administrator, Adult Parole; all classes of Parole Agent, Adult Parole; Assistant Director, Investigations and Law Enforcement Liaison; Senior Special Agent; Special Agent; all classes of Women's Parole Agent; Medical Facility Superintendent; Superintendent, California Institution for Women; all classes of Correctional Counselor; Chief and Assistant Chief Transportation Officer, (b) the Department of the Youth Authority employed to perform the duties now performed in positions with the following class titles: Director, Department of the Youth Authority; Chief, Division of Parole and Community Services; Deputy Chief, Division of Parole and Community Services; Program Administrator, Correctional School; Assistant Superintendent, Correctional School; all classes of Superintendent, Correctional School; Youth Authority Camp Superintendent; Assistant Superintendent, Youth Authority Camp; Chief, Division of Institutions; Treatment Team Supervisor; all classes of Transportation Officers, Youth Authority; Security Officer; all classes of Group Supervisors; all classes of Parole Agent, Youth Authority; all classes of Youth Counselor; Supervisor Community Treatment Programs; Correctional Casework Training Supervisor; Correctional Casework Trainee; all classes of Correctional Counselor, (c) the Board of Prison Terms employed to perform duties now performed in positions with the following class titles: all classes of Parole Agent; all classes of Correctional Counselor and the Chief of Investigation, (d) the Youthful Offender Parole Board employed to perform duties now performed in positions with the following class titles: all classes of Parole Agent, and (e) the Prison Industry Authority employed to perform duties now performed in positions with the following class titles: General Manager; Assistant General Manager, Administration and Marketing Branch; Chief, Industry Implementation Division; and Activation Manager.

(Added by Stats. 1970, Ch. 1600; amended by Stats. 1971, Ch. 1331; by Stats. 1972, Ch. 1098 and Ch. 1365; by Stats. 1978, Ch. 799; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1980, Ch. 46, effective 3/27/80, operative 1/1/80; by Stats. 1980, Ch. 481; by Stats. 1983, Ch. 395; by Stats. 1984, Ch. 441, effective 7/12/84; and by Stats. 1988, Ch. 1214; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 1998, Ch. 678.)

§ 20404. "State Safety Member"—State College Police

Notwithstanding Section 20401 "state safety member" shall include persons employed as members of a state college police department who meet the minimum standards of competence established by the Commission on Peace Officer

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Standards and Training, pursuant to Chapter 1 (commencing with Section 13500) of Title 4 of Part 4 of the Penal Code, except those members employed under class titles of Parking Officer and Campus Guard.

(Added by Stats. 1972, Ch. 1438; renumbered by Stats. 1995, Ch. 379.)

§ 20405. "State Safety Member"—Personnel at Correctional Facilities

(a) "State safety member" shall also include officers and employees of the Department of Corrections and Rehabilitation in the following classifications:

Code	Classification
0683	Assistant Dairy Operator
2156	Assistant Food Manager (Correctional Facility)
4302	Assistant General Manager, Operations
2080	Assistant Seamer (Correctional Facility)
5447	Assistant Warden, Psychiatric Services, Correctional Facility
6868	Automobile Mechanic (Correctional Facility)
6394	Automotive Equipment Operator I (Correctional Facility)
6392	Automotive Equipment Operator II (Correctional Facility)
6893	Automotive Pool Manager I (Correctional Facility)
2224	Baker I (Correctional Facility)
2221	Baker II (Correctional Facility)
2086	Barber (Correctional Facility)
2084	Barbershop Manager (Correctional Facility)
6216	Building Maintenance Worker (Correctional Facility)
2245	Butcher-Meat Cutter II (Correctional Facility)
6483	Carpenter I (Correctional Facility)
6474	Carpenter II (Correctional Facility)
6471	Carpenter III (Correctional Facility)
2015	Chief Assistant General Manager, Prison Industries
4110	Chief, Day Labor Programs (Correctional Facility)
9344	Chief Dentist, Correctional Facility
2578	Chief Deputy, Clinical Services, Correctional Facility
6699	Chief Engineer I (Correctional Facility)
7547	Chief Medical Officer, Correctional Facility
6754	Chief of Plant Operation I (Correctional Facility)
6751	Chief of Plant Operation II (Correctional Facility)
6748	Chief of Plant Operation III (Correctional Facility)
9267	Chief Physician and Surgeon, Correctional Facility
7612	Chief Psychiatrist, Correctional Facility
9859	Chief Psychologist, Correctional Facility
7146	Chief, Quality Assurance, Prison Industries
9279	Clinical Dietician, Correctional Facility
9293	Clinical Laboratory Technologist, Correctional Facility
4132	Construction Supervisor (Correctional Facility)
4107	Construction Supervisor I (Correctional Facility)

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Code	Classification
4108	Construction Supervisor II (Correctional Facility)
4109	Construction Supervisor III (Correctional Facility)
2187	Cook I (Correctional Facility)
2186	Cook II (Correctional Facility)
7208	Correctional Business Manager I, Department of Corrections
4744	Correctional Business Manager II, Department of Corrections
4910	Correctional Health Services Administrator I, Correctional Facility
4912	Correctional Health Services Administrator II, Correctional Facility
6304	Correctional Plant Manager I, Department of Corrections
6305	Correctional Plant Manager II, Department of Corrections
6303	Correctional Plant Supervisor, Department of Corrections
9296	Dental Assistant, Correctional Facility
9298	Dental Hygienist, Correctional Facility
9299	Dental Laboratory Technician, Correctional Facility
9268	Dentist, Correctional Facility
7200	Dry Cleaning Plant Supervisor
6544	Electrician I (Correctional Facility)
6538	Electrician II (Correctional Facility)
6534	Electrician III (Correctional Facility)
6916	Electronics Technician (Correctional Facility)
6865	Equipment Maintenance Supervisor (Correctional Facility)
2153	Food Administrator I (Correctional Facility)
2147	Food Administrator II (Correctional Facility)
2150	Food Manager (Correctional Facility)
2196	Food Service Worker I (Correctional Facility)
2195	Food Service Worker II (Correctional Facility)
6955	Fusion Welder (Correctional Facility)
6628	Glazier (Correctional Facility)
0743	Groundskeeper (Correctional Facility)
6826	Heavy Equipment Mechanic (Correctional Facility)
6379	Heavy Truck Driver (Correctional Facility)
9307	Hospital Aid, Correctional Facility
7218	Industrial Supervisor, Prison Industries (Bindery)
0648	Industrial Supervisor, Prison Industries (Crop Farm)
0682	Industrial Supervisor, Prison Industries (Dairy)
7204	Industrial Supervisor, Prison Industries (Dental Laboratory)
7198	Industrial Supervisor, Prison Industries (Fabric Products)
7211	Industrial Supervisor, Prison Industries (Knit Goods Finishing)
7210	Industrial Supervisor, Prison Industries (Knitting Mill)
2109	Industrial Supervisor, Prison Industries (Laundry)

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Code	Classification
7215	Industrial Supervisor, Prison Industries (Maintenance and Repair)
7197	Industrial Supervisor, Prison Industries (Mattress and Bedding)
7191	Industrial Supervisor, Prison Industries (Metal Fabrication)
7216	Industrial Supervisor, Prison Industries (Printing)
7207	Industrial Supervisor, Prison Industries (Shoe Manufacturing)
7206	Industrial Supervisor, Prison Industries (Shoes and Boots, Lasting to Packing)
7321	Industrial Supervisor, Prison Industries (Silkscreen)
7192	Industrial Supervisor, Prison Industries (Tool and Die)
7179	Industrial Supervisor, Prison Industries (Upholstery)
7178	Industrial Supervisor, Prison Industries (Wood Products)
2006	Janitor (Correctional Facility)
2005	Janitor Supervisor I (Correctional Facility)
2004	Janitor Supervisor II (Correctional Facility)
2000	Janitor Supervisor III (Correctional Facility)
9265	Laboratory Assistant, Correctional Facility
2727	Language, Speech and Hearing Specialist
2114	Laundry Supervisor I (Correctional Facility)
2111	Laundry Supervisor II (Correctional Facility)
2117	Laundry Worker (Correctional Facility)
6867	Lead Automobile Mechanic (Correctional Facility)
0720	Lead Groundskeeper (Correctional Facility)
0718	Lead Groundskeeper I (Correctional Facility)
2952	Librarian (Correctional Facility)
6643	Locksmith I (Correctional Facility)
6801	Machinist (Correctional Facility)
6941	Maintenance Mechanic (Correctional Facility)
6617	Mason (Correctional Facility)
1508	Materials and Stores Supervisor I (Correctional Facility)
1505	Materials and Stores Supervisor II (Correctional Facility)
8217	Medical Technical Assistant, Correctional Facility
9273	Nurse Anesthetist, Correctional Facility
9353	Nurse Instructor, Correctional Facility
9278	Nurse Practitioner, Correctional Facility
9280	Occupational Therapist, Correctional Facility
7971	Optometrist, Correctional Facility
6528	Painter I (Correctional Facility)
6524	Painter II (Correctional Facility)
6521	Painter III (Correctional Facility)
7199	Pest Control Technician (Correctional Facility)
9281	Physical Therapist I, Correctional Facility
9342	Physical Therapist II, Correctional Facility
9269	Physician and Surgeon, Correctional Facility

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Code	Classification
6550	Plumber I (Correctional Facility)
6594	Plumber II (Correctional Facility)
6545	Plumber III (Correctional Facility)
7972	Podiatrist (Correctional Facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Prison Industries Administrator
7157	Prison Industries Manager (General)
7164	Prison Industries Manager (Metal Products)
7165	Prison Industries Manager (Textile Products)
7163	Prison Industries Manager (Wood Products)
0679	Prison Industries Superintendent I (Agriculture)
0617	Prison Industries Superintendent II (Agriculture)
7217	Prison Industries Superintendent II (Bindery)
7109	Prison Industries Superintendent I (Coffee Roasting and Grinding)
7203	Prison Industries Superintendent I (Dental Laboratory)
7202	Prison Industries Superintendent II (Dental Laboratory)
7170	Prison Industries Superintendent II (Detergent)
7350	Prison Industries Superintendent I (Egg Production)
7194	Prison Industries Superintendent I (Fabric Products)
7195	Prison Industries Superintendent II (Fabric Products)
7351	Prison Industries Superintendent I (Fiberglass Products)
7352	Prison Industries Superintendent I (Furniture Refurbishing)
7209	Prison Industries Superintendent II (Knitting Mill)
2108	Prison Industries Superintendent II (Laundry)
7154	Prison Industries Superintendent II (Maintenance and Repair)
7196	Prison Industries Superintendent II (Mattress and Bedding)
7189	Prison Industries Superintendent I (Metal Products)
7190	Prison Industries Superintendent II (Metal Products)
7214	Prison Industries Superintendent II (Printing)
7205	Prison Industries Superintendent II (Shoe Manufacturing)
7320	Prison Industries Superintendent I (Silkscreen)
7319	Prison Industries Superintendent II (Silkscreen)
7175	Prison Industries Superintendent I (Wood Products)
7172	Prison Industries Superintendent II (Wood Products)
4760	Procurement and Services Officer I (Correctional Facility)
4761	Procurement and Services Officer II (Correctional Facility)
7162	Product Engineering Technician, Prison Industries
7156	Production Manager I, Prison Industries
1793	Property Controller I (Correctional Facility)
1794	Property Controller II (Correctional Facility)
9282	Psychiatric Social Worker, Correctional Facility
9283	Psychologist-Clinical, Correctional Facility

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Code	Classification
9284	Psychology Associate, Correctional Facility
9354	Psychology Internship Director, Correctional Facility
9285	Psychometrist, Correctional Facility
9274	Public Health Nurse I, Correctional Facility
9345	Public Health Nurse II, Correctional Facility
7145	Quality Assurance Manager, Prison Industries
3080	Quality Control Technician, Prison Industries (Cleaning Products)
9315	Radiologic Technologist, Correctional Facility
9286	Recreation Therapist, Correctional Facility
6715	Refrigeration Engineer (Correctional Facility)
9275	Registered Nurse, Correctional Facility
2734	Resource Specialist, Special Education
9316	Respiratory Care Practitioner, Correctional Facility
9854	School Psychologist
2077	Seamer (Correctional Facility)
9348	Senior Clinical Laboratory Technologist, Correctional Facility
9266	Senior Laboratory Assistant, Correctional Facility
2945	Senior Librarian (Correctional Facility)
8215	Senior Medical Technical Assistant
9346	Senior Occupational Therapist, Correctional Facility
9270	Senior Psychiatrist, Correctional Facility (Specialist)
9271	Senior Psychiatrist, Correctional Facility (Supervisor)
9289	Senior Psychologist, Correctional Facility
9287	Senior Psychologist, Correctional Facility (Specialist)
9288	Senior Psychologist, Correctional Facility (Supervisor)
9350	Senior Radiologic Technologist, Correctional Facility (Specialist)
9351	Senior Radiologic Technologist, Correctional Facility (Supervisor)
7562	Sheet Metal Worker (Correctional Facility)
6211	Skilled Laborer (Correctional Facility)
9911	Social Worker, Youth Authority
9272	Staff Psychiatrist, Correctional Facility
9290	Staff Psychologist-Clinical, Correctional Facility
6713	Stationary Engineer (Correctional Facility)
6718	Stationary Engineer Apprentice (Four-Year Program) (Correctional Facility)
6557	Steamfitter Supervisor (Correctional Facility)
3082	Substitute Academic Teacher (Correctional Facility)
9349	Supervising Clinical Laboratory Technologist, Correctional Facility
2183	Supervising Cook I (Correctional Facility)
2182	Supervising Cook II (Correctional Facility)
0716	Supervising Groundskeeper II (Correctional Facility)
2044	Supervising Housekeeper I (Correctional Facility)

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Code	Classification
2940	Supervising Librarian (Correctional Facility)
9276	Supervising Psychiatric Nurse, Correctional Facility
9291	Supervising Psychiatric Social Worker I, Correctional Facility
9292	Supervising Psychiatric Social Worker II, Correctional Facility
9317	Supervising Registered Nurse I, Correctional Facility
9318	Supervising Registered Nurse II, Correctional Facility
9319	Supervising Registered Nurse III, Correctional Facility
9910	Supervising Social Worker I, Youth Authority
9908	Supervising Social Worker II, Youth Authority
2305	Supervisor of Academic Instruction (Correctional Facility)
6763	Supervisor of Building Trades (Correctional Facility)
2384	Supervisor of Commercial Diver Training
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
9277	Surgical Nurse I, Correctional Facility
9329	Surgical Nurse II, Correctional Facility
3073	Teacher (Adaptive Physical Education) (Correctional Facility)
2286	Teacher (Cerebral Palsied Children) (Correctional Facility)
2287	Teacher (Elementary-Multiple Subjects) (Correctional Facility)
2288	Teacher (Emotionally/Learning Handicapped) (Correctional Facility)
3075	Teacher (English Language Development) (Correctional Facility)
2297	Teacher (Ethnic Studies) (Correctional Facility)
2289	Teacher (Family Life Education) (Correctional Facility)
2373	Teacher (Hearing Impaired) (Correctional Facility)
2284	Teacher (High School-Arts and Crafts) (Correctional Facility)
2285	Teacher (High School-Business Education) (Correctional Facility)
3074	Teacher (High School-English/Language Arts) (Correctional Facility)
3076	Teacher (High School-Foreign Language) (Correctional Facility)
2290	Teacher (High School-General Education) (Correctional Facility)
2291	Teacher (High School-Home Economics) (Correctional Facility)
3077	Teacher (High School-Mathematics) (Correctional Facility)
2294	Teacher (High School-Music) (Correctional Facility)
2295	Teacher (High School-Physical Education) (Correctional Facility)

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Code	Classification
3078	Teacher (High School-Science) (Correctional Facility)
3079	Teacher (High School-Social Science) (Correctional Facility)
2298	Teacher (Librarian) (Correctional Facility)
2292	Teacher (Mentally Retarded Children) (Correctional Facility)
2371	Teacher (Speech Development and Correction) (Correctional Facility)
6400	Teaching Assistant (Correctional Facility)
7201	Tobacco Factory Superintendent
7560	Tractor Operator-Laborer (Correctional Facility)
6382	Truck Driver (Correctional Facility)
6772	Utility Shops Supervisor (Correctional Facility)
2387	Vocational Instructor (Airframe Mechanics) (Correctional Facility)
2853	Vocational Instructor (Animal Husbandry) (Correctional Facility)
2396	Vocational Instructor (Auto Body and Fender Repair) (Correctional Facility)
2398	Vocational Instructor (Auto Mechanics) (Correctional Facility)
2399	Vocational Instructor (Baking) (Correctional Facility)
2400	Vocational Instructor (Bookbinding) (Correctional Facility)
2854	Vocational Instructor (Building Maintenance) (Correctional Facility)
2417	Vocational Instructor (Carpentry) (Correctional Facility)
2419	Vocational Instructor (Commercial Diver Training) (Correctional Facility)
2855	Vocational Instructor (Computer and Related Technologies) (Correctional Facility)
2420	Vocational Instructor (Cosmetology) (Correctional Facility)
2422	Vocational Instructor (Culinary Arts) (Correctional Facility)
2869	Vocational Instructor (Dental Technology) (Correctional Facility)
2856	Vocational Instructor (Diesel Mechanics) (Correctional Facility)
2423	Vocational Instructor (Dog Grooming and Handling) (Correctional Facility)
2425	Vocational Instructor (Drycleaning Works) (Correctional Facility)
2857	Vocational Instructor (Drywall Installer/Taper) (Correctional Facility)
2426	Vocational Instructor (Electrical Work) (Correctional Facility)

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Code	Classification
2428	Vocational Instructor (Electronics) (Correctional Facility)
2688	Vocational Instructor (Eyewear Manufacturing) (Correctional Facility)
2429	Vocational Instructor (Fire Science) (Correctional Facility)
2858	Vocational Instructor (Floor Cover Layer) (Correctional Facility)
2431	Vocational Instructor (Furniture Refinishing and Repair) (Correctional Facility)
2432	Vocational Instructor (Garment Making) (Correctional Facility)
2433	Vocational Instructor (Heavy Equipment Repair) (Correctional Facility)
2597	Vocational Instructor (Household Appliance Repair) (Correctional Facility)
2598	Vocational Instructor (Industrial Arts) (Correctional Facility)
2599	Vocational Instructor (Instrument Repair) (Correctional Facility)
2600	Vocational Instructor (Janitorial Service) (Correctional Facility)
2601	Vocational Instructor (Landscape Gardening) (Correctional Facility)
2611	Vocational Instructor (Laundry Work) (Correctional Facility)
2614	Vocational Instructor (Machine Shop Practice) (Correctional Facility)
2615	Vocational Instructor (Masonry) (Correctional Facility)
2619	Vocational Instructor (Meat Cutting) (Correctional Facility)
2627	Vocational Instructor (Mechanical Drawing) (Correctional Facility)
2628	Vocational Instructor (Merchandising) (Correctional Facility)
2630	Vocational Instructor (Mill and Cabinet Work) (Correctional Facility)
2674	Vocational Instructor (Office Machine Repair) (Correctional Facility)
2849	Vocational Instructor (Office Services and Related Technologies) (Correctional Facility)
2640	Vocational Instructor (Offset Printing) (Correctional Facility)
2644	Vocational Instructor (Painting) (Correctional Facility)
2645	Vocational Instructor (Plastering) (Correctional Facility)
2661	Vocational Instructor (Plumbing) (Correctional Facility)
2665	Vocational Instructor (Powerplant Mechanics) (Correctional Facility)
2666	Vocational Instructor (Printing) (Correctional Facility)

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Code	Classification
2667	Vocational Instructor (Radiologic Technology) (Correctional Facility)
2668	Vocational Instructor (Refrigeration and Air-conditioning Repair) (Correctional Facility)
2850	Vocational Instructor (Roofer) (Correctional Facility)
2669	Vocational Instructor (Sewing Machine Repair) (Correctional Facility)
2670	Vocational Instructor (Sheet Metal Work) (Correctional Facility)
2671	Vocational Instructor (Shoemaking) (Correctional Facility)
2672	Vocational Instructor (Silk Screening Process) (Correctional Facility)
2851	Vocational Instructor (Small Engine Repair) (Correctional Facility)
2673	Vocational Instructor (Storekeeping and Warehousing) (Correctional Facility)
5415	Vocational Instructor (Telemarketing/Customer Service) (Correctional Facility)
2675	Vocational Instructor (Upholstering) (Correctional Facility)
2676	Vocational Instructor (Vocational Nursing) (Correctional Facility)
2677	Vocational Instructor (Welding) (Correctional Facility)
1504	Warehouse Manager I (Correctional Facility)
1502	Warehouse Manager II (Correctional Facility)
6221	Warehouse Worker (Correctional Facility)
6724	Water and Sewage Plant Supervisor (Correctional Facility)
2311	Youth Authority Teacher

(b) In addition, "state safety member" shall also include officers and employees of the Department of Corrections and Rehabilitation in any classification of Vocational Instructor, Industrial Supervisor, Industrial Superintendent, Assistant Industrial Superintendent, or Production Manager II (Prison Industries) that is established on or after January 1, 1984, if the Department of Human Resources and the State Personnel Board approve the inclusion of the classification.

(c) "State safety member" shall also include officers and employees in parenthetical specialty classes when the core class has already been expressly included in the state safety membership category if the Department of Human Resources and the State Personnel Board approve the inclusion of the classifications. The inclusion shall not be effective until notice of the inclusion has been received by the board.

(d) Any of these officers or employees in employment on the operative date of an amendment to this section and who becomes a state safety member as a result of that amendment, may elect by a writing filed with the board prior to 90 days after notification by the board, to be restored to his or her previous status as a state

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industrial member. Upon the filing of the election the member shall cease to be a state safety member, and his or her rights and obligations shall be restored prospectively and retroactively to the operative date of that amendment.

(Added by Stats. 1976, Ch. 24; amended by Stats. 1977, Ch. 1069 and Ch. 1071, effective 9/26/77; by Stats. 1978, Ch. 786, effective 9/18/78, operative 10/27/78; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1980, Ch. 481; by Stats. 1983, Ch. 395; by Stats. 1986, Ch. 922; by Stats. 1988, Ch. 305; by Stats. 1989, Ch. 1143; by Stats. 1990, Ch. 640; by Stats. 1991, Ch. 623; by Stats. 1992, Ch. 206, effective 7/15/92; by Stats. 1993, Ch. 771; and by Stats. 1994, Ch. 345; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 951; and by Stats. 2012, Ch. 665.)

§ 20405.1. Eligibility for State Safety Membership—Collective Bargaining

Notwithstanding Section 20405, this section shall apply to state employees in state bargaining units that have agreed to these provisions in a memorandum of understanding between the state employer and the recognized employee organization, as defined in Section 3513, state employees who are excluded from the definition of "state employee" by subdivision (c) of Section 3513, and officers or employees of the executive branch of state government who are not members of the civil service.

(a) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.20, provided the Department of Human Resources agrees to their inclusion, and officers and employees whose classifications or positions have been designated as subject to state safety membership pursuant to Section 19816.21. For employees covered by a collective bargaining agreement, the effective date of safety membership shall be the date on which the department and the employees' exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5 or any later date specified in the memorandum of understanding. For employees not covered by a collective bargaining agreement, the Department of Human Resources shall determine the effective date of safety membership.

(b) The department shall notify the board as new classes or positions become eligible for state safety membership, as specified in subdivision (a), and specify how service prior to the effective date shall be credited.

(c) The department shall prepare and submit to the Legislature an annual report that contains the classes or positions that are eligible for state safety membership under this section.

(d) Any person designated as a state safety member pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous or industrial service retirement benefit and contribution rate by filing an irrevocable election with the board. A member who so elects shall be

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subject to the reduced benefit factors specified in Section 21076, 21353, or 21354.1, as applicable, only for service also included in the federal system.

(Added by Stats. 1998, Ch. 88, effective 6/30/98; amended by Stats. 1999, Ch. 457, effective 9/21/99; by Stats. 1999, Ch. 555; by Stats. 2000, Ch. 402, effective 9/11/00; by Stats. 2002, Ch. 56; and by Stats. 2012, Ch. 665.)

§ 20405.2. Alternate Election of Safety Formula—Section 20405.1

A member who made the election to remain under the miscellaneous or industrial retirement benefit, as provided in Section 20405.1, may elect to be subject to the state safety formula within 90 days of notification by the board. The election, which shall be provided by the board on and after January 1, 2000, shall be filed with the board. Past service that would have been credited as a safety member, but for the member's election to remain under the miscellaneous or industrial formula, shall be credited under the safety formula. This section shall apply to state employees in state bargaining units that have agreed to this provision in a memorandum of understanding, or authorized by the Director of Human Resources for classifications of state employees that are excluded from the definition of state employee by paragraph (c) of Section 3513.

(Added by Stats. 1999, Ch. 446, effective 9/21/99; amended by Stats. 2012, Ch. 665.)

§ 20405.3. Alternate Election of Safety Formula—Section 20405

(a) A member who is an employee of the Department of Corrections and Rehabilitation, who made the election to remain under the state industrial membership classification, as provided in subdivision (d) of Section 20405, may elect to be subject to state safety membership within 90 days of notification by the board, if the employee is in any of the following classifications:

(1) Dentist, Correctional Facility.

(2) Physician and Surgeon, Correctional Facility.

(3) Staff Psychiatrist, Correctional Facility.

(4) Podiatrist, Correctional Facility.

(b) The election, which shall be provided by the board on and after January 1, 2002, shall be filed with the board. Past service that would have been credited as a state safety member, but for the member's election to remain under the state industrial formula, shall be credited as safety service.

(c) This section shall apply to state employees in State Bargaining Unit 16 and, if authorized by the Director of Human Resources, state employees that are excluded from the definition of "state employee" by paragraph (c) of Section 3513.

(Added by Stats. 2001, Ch. 365, effective 9/27/01; amended by Stats. 2012, Ch. 665.)

Note: Former Section 20405.3 was added by Stats. 1998, Ch. 91, effective 7/3/98; amended by Stats. 1999, Ch. 555; repealed by Stats. 1999, Ch. 457, effective 9/21/99.

§ 20406. "State Safety Member"—Lifeguard Services

"State safety member" also includes persons employed by the state to perform lifeguard services and whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled at beaches and lakes, streams, dams, reservoirs, or other bodies of open water, but not including swimming pools, and including members employed to perform duties performed under the titles of "District Aquatic Supervisor," "Lifeguard Supervisor," and "Lifeguard" or equivalent successor classes, 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) that in other areas are customarily performed by firemen, and other and further duties that do not come directly within any of the above classifications but are essential to the safety and security of the public, other than persons employed under those titles on a seasonal basis, but excluding clerical, maintenance personnel, and others who do not fall within the scope of active lifeguarding or lifesaving services as described in this section even though those persons are subject to occasional call or are occasionally called upon to perform duties within the scope of active lifeguarding or lifesaving.

(Added by Stats. 1968, Ch. 669; amended by Stats. 1969, Ch. 1516; by Stats. 1972, Ch. 1098, operative 4/1/73; and by Stats. 1981, Ch. 238, effective and operative 7/20/81; renumbered by Stats. 1995, Ch. 379.)

§ 20407. "State Safety Member"—Health Personnel at Forensic Facilities

"State safety member" also includes officers and employees with the State Department of State Hospitals and the Department of Corrections in the following classifications:

Classification Code	Classification Title
8254	Prelicensed Psychiatric Technician (forensic facility)
8253	Psychiatric Technician (forensic facility)
8252	Senior Psychiatric Technician (forensic facility)
8212	Nurse Practitioner (forensic facility)
8160	Health Services Specialist (forensic facility)
7601	Program Director-Medical (forensic facility)

"State safety member" also includes an officer or employee of the State Department of State Hospitals at Patton State Hospital or Atascadero State Hospital, the State Department of State Hospitals Psychiatric Program of

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California Medical Facility at Vacaville, or any other state hospital that is deemed a forensic facility, who either is excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the direct supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Human Resources shall determine which classes meet the above conditions and report its findings to the Public Employees' Retirement System, whereupon the change in membership categories shall take effect.

Any person so designated pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit and contribution rate by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

(Added by Stats. 1988, Ch. 938; amended by Stats. 1992, Ch. 103, effective 6/30/92; by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 907; amended by Stats. 1999, Ch. 555; and by Stats. 2012, Ch. 440 and Ch. 665.)

§ 20407.5. Alternate Election of Safety Formula—Section 20407

(a) Notwithstanding Section 20407, any person designated as a state safety member pursuant to Section 20407 who elected to remain subject to the miscellaneous service retirement benefit and contribution rate as provided in that section may elect instead to be subject to the state safety service retirement benefit and contribution rate.

(b) This section shall apply to those officers and employees of the State Department of State Hospitals described in Section 20407 who are represented by State Bargaining Unit 18 and who became safety members effective January 1, 1998, when the Napa State Hospital and the Metropolitan State Hospital were designated as forensic facilities.

(c) This section shall also apply to any member who is excluded from the definition of state employee in subdivision (c) of Section 3513 and who is directly associated with employees represented by State Bargaining Unit 18.

(d) The election provided under this section shall be filed with the board by the member within 90 days after notification by the board that the member has the right to elect to be subject to the state safety member service retirement formula and contribution rates. If the election is not made by the member, he or she shall remain subject to the miscellaneous service retirement benefit and contribution rate.

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(Added by Stats. 2000, Ch. 402, effective 9/11/00; amended by Stats. 2012, Ch. 440.)

§ 20408. "State Safety Member"—Additional Personnel at Correctional or Forensic Facilities

"State safety member" also includes officers and employees with the Department of State Hospitals or the Department of Forestry and Fire Protection in the following classifications:

Classification Code	Classification Title
2860	Audio Visual Assistant (Correctional Facility)
2861	Audio Visual Specialist (Correctional Facility)
8094	Registered Nurse (Forensic Facility)

"State safety member" also includes an officer or employee of the Department of State Hospitals at Patton State Hospital or Atascadero State Hospital, who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Human Resources shall determine which classes meet the above conditions and report its findings to this system, whereupon the change in membership categories shall take effect.

(Added by Stats. 1989, Ch. 962; amended by Stats. 1990, Ch. 640; Stats. 1993, Ch. 109; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2012, Ch. 440 and Ch. 665.)

§ 20409. "State Safety Member"—Various Classes and Departments

(a) "State safety member" shall also include officers and employees of the following departments with the following class titles:

Class Code	Classification	Department
8330	Aircraft Pilot, Department of Justice	Justice
8997	Arson and Bomb Investigator	Fire Marshal
9027	Assistant Chief, Food and Drug Section	Health Services
8609	Chief, Bureau of Fraudulent Claims, Department of Insurance	Insurance
8610	Chief, Division of Investigations, Department of Consumer Affairs	Consumer Affairs

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Class Code	Classification	Department
8988	Chief Firefighter/Security Guard	Veterans Affairs
9030	Chief, Food and Drug Section	Health Services
8613	Chief, Investigation Bureau, Department of Health Services	Health Services
1986	Chief Museum Security Officer	Museum of Science and Industry
8673	Deputy Division Chief, Alcoholic Beverage Control	Alcoholic Beverage Control
8677	District Administrator, Alcoholic Beverage Control	Alcoholic Beverage Control
8990	Firefighter/Security Guard	Veterans Affairs
8966	Division Chief, California State Fire Marshal	Fire Marshal
9090	Fire Service Training Specialist III	Fire Marshal
9091	Fire Service Training Supervisor	Fire Marshal
9028	Food and Drug Program Coordinator	Health Services
9029	Food and Drug Regional Administrator	Health Services
9042	Food and Drug Specialist II	Health Services
9039	Food and Drug Specialist III	Health Services
9036	Food and Drug Specialist IV	Health Services
9043	Food and Drug Trainee	Health Services
9007	Food Technology Specialist	Health Services
1937	Hospital Peace Officer I	Developmental Services, Mental Health, Consumer Affairs
1936	Hospital Peace Officer II	Developmental Services, Mental Health, Consumer Affairs
1935	Hospital Peace Officer III	Developmental Services, Mental Health
1992	Museum Security Officer	Museum of Science and Industry
0891	Park Safety and Enforcement Supervisor	Parks and Recreation
0890	Park Safety and Enforcement Specialist	Parks and Recreation
8358	State Security Officer	General Services
8999	Chief Arson and Bomb Investigator	Fire Marshal
8989	Supervising Firefighter/Security Guard	Veterans Affairs
1988	Supervising Museum Security Officer	Museum of Science and Industry
8678	Supervising Special Investigator, Alcoholic Beverage Control	Alcoholic Beverage Control

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(b) Any person employed in the classifications described in subdivision (a) in the department indicated may elect, within 90 days of September 27, 1982, to remain subject to the miscellaneous service retirement benefit by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

(c) This section shall not become applicable to any member included in a classification until a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" or "fireman," or both, is issued by the federal agency for purposes of Section 418(d)(5)(A) of Title 42 of the United States Code.

(Added by Stats. 1982, Ch. 1425, effective and operative 9/27/82; amended by Stats. 1985, Ch. 176, effective 7/8/85; and by Stats. 1994, Ch. 345; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 907; and by Stats. 1999, Ch. 555.)

§ 20410. "State Safety Member"—Investigators at Various Departments

"State safety member" also includes all persons in the Department of Alcoholic Beverage Control, the Board of Parole Hearings, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Care Services, the Department of Toxic Substances Control, the California Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the State Department of State Hospitals, the Department of Motor Vehicles, and the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), Investigator Trainee (Class Code 8555) and Investigator Assistant (Class Code 8554), Supervising Special Investigator I (Class Code 8548), Special Investigator II (Class Code 8547), and persons in the class of State Park Ranger (Intermittent) (Class Code 0984) in the Department of Parks and Recreation, who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(Added by Stats. 1982, Ch. 1425, effective and operative 9/27/82; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 2012, Ch. 440; and by Stats. 2013, Ch. 76.)

§ 20411. "State Safety Member"—Vocational Instructors at Correctional Facilities

"State safety member" also includes members employed in the positions with the classification of Vocational Instructor (Barber Shop Practices) (Correctional Facility) (Class Code 2441).

(Added by Stats. 1985, Ch. 236, effective 7/25/85; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

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§ 20412. "State Safety Member"—Certain Firefighters

"State safety member" shall also include persons employed to perform full-time active firefighting duties performed on April 1, 1972, under the titles of "institution fire chief," "institution fireman," and "campus firefighter" by state agencies other than the Department of Forestry and Fire Protection.

(Added by Stats. 1971, Ch. 331; amended by Stats. 1972, Ch. 1098; and by Stats. 1976, Ch. 1471; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1995, Ch. 830; and by Stats. 1996, Ch. 906.)

§ 20413. "State Safety Member"—Campus Firefighters

"State safety member" shall also include persons employed under the title of "campus firefighter" who performed active firefighting duties for the state on April 1, 1973, and who, on January 1, 1979, performed those duties for a local agency providing fire protection under contract to the state.

(Added by Stats. 1978, Ch. 670; renumbered and amended by Stats. 1987, Ch. 56; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20414. "State Safety Member"—State Park Rangers or Firefighter Guards

"State safety member" also includes members employed in the Department of Parks and Recreation in the following classifications: State Park Ranger Trainee, State Park Ranger I, State Park Ranger II, State Park Ranger III, State Park Ranger IV, and State Park Technician.

"State safety member" also includes members employed in the Military Department in the following classifications: Firefighter Guard, Supervising Firefighter Guard, and Chief Firefighter Guard.

"State safety service," with respect to a member who becomes a state safety member pursuant to this section, shall also include service with the specified departments prior to April 1, 1982.

(Added by Stats. 1982, Ch. 37, effective and operative 2/17/82; amended by Stats. 1984, Ch. 346; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20415. "State Safety Member"—State Park Managers

"State safety member" also includes members employed in the Department of Parks and Recreation in the following classifications: Manager I, State Park; Manager II, State Park; Manager III, State Park; Manager IV, State Park; and Manager V, State Park. New incumbents to these classes who are not peace officers, shall receive the training required by the Commission on Peace Officer Standards and Training within two years of appointment.

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"State safety service," with respect to a member who becomes a state safety member pursuant to this section, shall also include service prior to September 22, 1982.

(Added by Stats. 1982, Ch. 1220, effective and operative 9/22/82; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20416. State Peace Officer/Firefighter Members Excluded from "State Safety Member"

"State safety member" includes all persons specified in this article by employer, classification, or duties performed, except persons in those classes defined as state peace officer/firefighter members.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 20417. Repealed

(Repealed by Stats. 1999, Ch. 785.)

ARTICLE 4. SAFETY MEMBER CLASSIFICATION—CONTRACTING AGENCIES AND SCHOOLS

§ 20420. "Local Safety Member"—Contractual Inclusion

"Local safety member" includes all local police officers, local sheriffs, firefighters, safety officers, county peace officers, and school safety members, employed by a contracting agency who have by contract been included within this system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 597; by Stats. 1977, Ch. 134; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 871.)

§ 20421. "Local Safety Member"—Lifeguards

"Local safety member" also includes all employees of a city who have by contract been included within this system, and whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled in water areas at ocean beaches and the recovery from those 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 aquatics director, chief lifeguard, captain lifeguards, 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

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principal duties) that in other areas are customarily performed by firefighters, and other and further duties that do not come directly within any of the above 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 the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active lifeguarding or lifesaving service.

This section does not apply to the employees of any contracting agency having a contract with the board made prior to September 18, 1959, until the agency elects to subject itself and its employees to the provisions of this section by amendment to its contract with the board pursuant to Section 20474; except that an election is required only among the employees to whom the provisions of this section apply.

The amendments of this section, made by Chapter 130 of the Statutes of 1982 do not constitute a substantive change in the law and shall not be construed to entitle any person to any right or benefit that he or she was not already entitled to prior to December 31, 1982.

(Added by Stats. 1959, Ch. 1026; amended by Stats. 1982, Ch. 130; renumbered by Stats. 1995, Ch. 379.)

§ 20422. "Local Safety Member"—Emergency Medical Care

"Local safety member" also includes all employees of a public agency whose principal duties consist of rendering prehospital emergency medical care to ill or injured persons and who are employees designated as Emergency Medical Technician-I, Emergency Medical Technician-II, or Emergency Medical Technician-Paramedic, as defined by, respectively, Sections 1797.80, 1797.82, and 1797.84 of the Health and Safety Code.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board made pursuant to Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1984, Ch. 1283; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379.)

§ 20423. "Local Safety Member"—Harbor or Port Police

"Local safety member" also includes any harbor or port police officer, employed by a contracting agency, who is a peace officer as defined in subdivision (b) of Section, 830.33 of the Penal Code and whose principal duties consist of active law enforcement of the laws contained in Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the California Department of Boating and

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Waterways, and Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, pursuant to Section 20474, or by express provision within its contract with the board.

(Added by Stats. 1987, Ch. 1411; renumbered by Stats. 1995, Ch. 379.)

§ 20423.3. "Local Safety Member"—Airport Patrol or Police

(a) "Local safety member" also includes any airport patrol officer, airport law enforcement officer, or airport police officer employed by a contracting agency who is a peace officer, as defined in subdivision (d) of Section 830.33 of the Penal Code, employed by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport, if the primary duty of the peace officer is the enforcement of the law in or about properties owned, operated, or administered by the employing agency or when performing necessary duties with respect to patrons, employees, or properties of the employing agency.

(b) This section shall not apply to any contracting agency or to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, pursuant to Section 20474, or by express provision within its contract with the board.

(Added by Stats. 2009, Ch. 79.)

§ 20423.5. "Local Safety Member"—Park Rangers

"Local safety member" also includes any park ranger employed by a contracting agency who is a peace officer as defined in subdivision (b) of Section 830.31 of the Penal Code and whose primary responsibility is maintaining the peace and whose duties include law enforcement, emergency medical care first response, or fire suppression and prevention.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board pursuant to Section 20474, or by express provision within its contract with the board.

(Added by Stats. 2001, Ch. 787; amended by Stats. 2002, Ch. 664.)

§ 20423.6. "Local Safety Member"—Public Prosecutors, Defenders, and Defender Investigators

(a) "Local safety member" also includes local prosecutors, local public defenders, and local public defender investigators.

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(b) For purposes of this part, "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 this section becomes applicable to the member's contracting agency as provided in subdivision (g).

(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 this section becomes applicable to the member's contracting agency as provided in subdivision (g).

(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 of retirement is on or after the date this section becomes applicable to the member's contracting agency as provided in subdivision (g).

(c) For purposes of this part, "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.

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(2) His or her job classification is or, on or after 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 this section becomes applicable to the member's contracting agency as provided in subdivision (g).

(d) For purposes of this part, "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 cases.

(4) His or her effective date of retirement is on or after the date this section becomes applicable to the member's contracting agency as provided in subdivision (g).

(e) Notwithstanding Section 20890, past local miscellaneous service performed by a local prosecutor, local public defender, or local public defender investigator who becomes a local safety member pursuant to this section shall be converted to local safety service if the past service was rendered in a position that has subsequently been reclassified as a safety position pursuant to this section. For local prosecutors described in paragraph (2) of subdivision (b), service in the office of a district attorney and a local child support agency shall be considered service for the district attorney for the purposes of this section. Any unfunded liability resulting from this section shall be paid by the employer.

(f) Notwithstanding any other provision of this part or any provision of the contracting agency's contract with the board, local prosecutors, local public defenders, and local public defender investigators shall be subject to the benefit formula contained in Section 21362, 21363, or 21363.1, or any other benefit formula applicable to local safety members that does not provide benefits greater than those benefits provided under Section 21363.1, as designated in the contract amendment or express contract provision described in subdivision (g).

(g) This section shall not apply to any officers and employees of a contracting agency or to the agency unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474, or by express provision in its contract with the board. If a contracting agency elects to be subject to this section, the contracting agency shall include all local prosecutors, local public defenders, and local public defender investigators described in this section.

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(h) This section does not apply to any officer or employee of a contracting agency who dies prior to the date the contracting agency elects to be subject to this section.

(Added by Stats. 2002, Ch. 1152.)

§ 20424. "Local Safety Officer"—Public Safety Department

"Local safety officer" means any officer or employee of a public safety department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement or firefighting and prevention service even though the 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, but not excepting persons employed and qualifying as patrol officers or equal or higher rank, or as firefighters, hose officers, or equal or higher rank, irrespective of the duties to which they are assigned.

"Local safety officer" does not include persons employed to perform identification or communication duties. This paragraph shall not apply to persons employed and qualified as patrol officers or equal or higher rank, or as firefighters, hose officers, or equal or higher rank.

(Added by Stats. 1977, Ch. 134; renumbered by Stats. 1995, Ch. 379.)

§ 20425. "Local Police Officer"—Police Department (Required)

"Local police officer" means any officer or employee of a police department of a contracting agency which is a city, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as patrolmen or equal or higher rank irrespective of the duties to which they are assigned.

"Local police officer" does not include persons employed to perform identification or communication duties, other than persons in that employment on August 4, 1972, who elected within 90 days thereafter to be local safety members. A contracting agency may elect by amendment to its contract to include as "local police officer" all persons who were employed to perform identification or communication duties on August 4, 1972, and who elect within 60 days of the effective date of the contract amendment to be local safety members. The election shall apply to the person's past as well as future service in the employment held on the effective date but shall not apply to service following any subsequent acceptance of appointment to a position other than that held on the effective date. This paragraph shall not apply to persons employed and qualified as patrol officers or equal or higher rank.

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(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1972, Ch. 560; by Stats. 1973, Ch. 91; by Stats. 1974, Ch. 470; by Stats. 1975, Ch. 625; and by Stats. 1984, Ch. 346; renumbered by Stats. 1995, Ch. 379.)

§ 20426. "Local Police Officer"—Communication Duties

"Local police officer" also includes any officer or employee of a police department of a contracting agency that is a city, employed to perform communication duties for an employer that contracted with this system for coverage for its local police officers on October 1, 1948, and who elected to become a local safety member on August 25, 1973, pursuant to Chapter 91 of the Statutes of 1973.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for the approval of contracts or, in the case of contracts made after January 1, 1989, by express provision in the contract making the contracting agency subject to this section.

(Added by Stats. 1988, Ch. 1235; renumbered by Stats. 1995, Ch. 379.)

§ 20427. "Local Police Officer"—Juvenile Bureau

"Local police officer" also includes any officer or employee of a juvenile bureau of a contracting agency whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

The provisions of this section do not apply to the employees of any contracting agency having a contract with the board made prior to September 22, 1951, until the agency elects to subject itself and its employees to the provisions of this section by amendment to its contract with the board pursuant to Section 20474; except that an election is required only among the employees to whom Section 20427 applies.

(Added by Stats. 1951, Ch. 1246; renumbered by Stats. 1995, Ch. 379.)

§ 20428. "Local Police Officer"—Assumption by City or County

"Local police officer" shall also include any officer or employee of a contracting agency that is a city and county, in any employment in which he or she was a law enforcement member as defined by Section 20402 at the time of the assumption by the city and county of the function in which he or she was employed.

(Added by Stats. 1969, Ch. 5, effective 2/6/69; renumbered by Stats. 1995, Ch. 379.)

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§ 20429. "Local Police Officer"—Peace Officers

"Local police officer" also includes any officer or employee of a contracting agency other than a city or a county who is a peace officer as defined in the Penal Code and whose principal duties consist of active law enforcement but excluding clerical personnel or those whose principal duties are that of communication officer, identification officer, machinist, mechanic, security officer or are otherwise not clearly within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon to perform duties within the scope of active law enforcement.

The provisions of this section shall apply to any contracting agency that is not a city or county with respect to any of its employees who were local police officers within the meaning of Section 20425 prior to its amendment by Chapter 625 of the Statutes of 1975 and in employment on January 1, 1976.

The provisions of this section shall not otherwise apply to the employees of any contracting agency nor to any contracting agency until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board made as provided in Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1975, Ch. 625; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 664.)

§ 20430. "Local Police Officer"—School or College

"Local police officer" also includes any officer or employee of a school district or a community college district that has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. This section shall only apply to any school district or community college district that prior to June 30, 1982, had amended its contract to provide membership for local police officers.

(Added by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; amended by Stats. 1988, Ch. 963; by Stats. 1989, Ch. 404; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379.)

§ 20431. "Local Police Officer"—Jail; Correctional Facility

"Local police officer" also includes any employee of a contracting agency that is a city, who is employed in a jail or a detention or correctional facility and having as his or her primary duty and responsibility the supervision and custody of persons committed to the jail or facility. It shall not include persons employed as clerks, typists, teachers, instructors, or psychologists or to provide food,

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maintenance, health, or supporting services, even though responsibility for custody and control of persons so committed may be incident to, or imposed in connection with, that service.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract with the board, made pursuant to Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1983, Ch. 885; renumbered by Stats. 1995, Ch. 379.)

§ 20432. "Local Sheriff"—Sheriff's Office

(a) "Local sheriff" means any officer or employee of a sheriff's office of a contracting agency, except 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 service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as deputy sheriffs or equal or higher rank irrespective of the duties to which they are assigned.

(b) "Local sheriff" does not include persons employed to perform identification or communication duties other than persons in that employment on August 4, 1972, who elected within 90 days thereafter to be local safety members. A contracting agency may elect by amendment to its contract to include as "local sheriff" all persons who were employed to perform identification or communication duties on August 4, 1972, and who elect within 60 days of the effective date of the contract amendment to be local safety members. The election shall apply to the person's past as well as future service in the employment held on the effective date but shall not apply to service following any subsequent acceptance of appointment to a position other than that held on the effective date. This subdivision shall not apply to persons employed and qualified as deputy sheriffs or equal or higher rank.

(c) Any officer or employee who is a local sheriff as defined in this section shall not be deemed to be a county peace officer, as defined in Section 20436, for any purpose under this part.

(d) This section shall not apply to the employees of any contracting agency nor to any such agency unless and until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

(Added by Stats. 2000, Ch. 871; amended by Stats. 2001, Ch. 149.)

§ 20432.5. "Local Sheriff"—DA Investigators and Marshals—Butte and Shasta Counties

(a) "Local sheriff" also means a regularly employed marshal of Shasta County or of a judicial district of Shasta County. "Local sheriff" also means a regularly employed deputy marshal of Shasta County or of a judicial district of Shasta County, or a district attorney investigator of Shasta or Butte County whose principal duties are to investigate crime and criminal cases, if the deputy marshal or district attorney investigator is a member of the deputy sheriffs' bargaining unit in the county or the judicial district.

(b) An officer or employee who is a local sheriff as defined in this section is not a county peace officer as defined in Section 20436 or 20437.

(c) This section does not apply to the employees of any contracting agency nor to the agency, unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474, or by express provision in its contract with the board.

(d) Within 90 days of notice to the county that a risk pool has been established pursuant to Section 20225.5, which makes available the same service retirement formula provided to local sheriff members in the county, the members included in the local sheriff member classification pursuant to this section shall be included in one of the available risk pools.

(Added by Stats. 2002, Ch. 114, effective 7/30/02.)

§ 20432.6. "Local Sheriff"—DA Investigators—Solano County

(a) "Local sheriff" also means a regularly employed district attorney investigator of Solano County whose principal duties are to investigate crime and criminal cases, if the district attorney investigator is a member of the deputy sheriffs' bargaining unit in the county or the judicial district.

(b) An officer or employee who is a local sheriff as defined in this section is not a county peace officer as defined in Section 20436 or 20437.

(c) This section does not apply to the employees of any contracting agency or to the agency, unless the contracting agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474, or by express provision in its contract with the board.

(Added by Stats. 2005, Ch. 708.)

§ 20433. "Local Firefighter"—Fire Department (Required)

"Local firefighter" means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active

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firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1987, Ch. 1411; and by Stats. 1989, Ch. 1464, effective 10/2/89; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 20434. "Local Firefighter"—Various Including Emergency Medical Services

"Local firefighter" also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation service, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation service, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

This section shall not apply to the employees of any contracting agency nor to any contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, made pursuant to Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1989, Ch. 1464, effective 10/2/89; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 20434.5. "Local Firefighter"—Hazardous Materials Services

"Local firefighter" also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of hazardous materials services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of hazardous materials services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

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This section shall not apply to the employees of any contracting agency nor to any contracting agency unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made pursuant to Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1997, Ch. 60; amended by Stats. 2001, Ch. 793.)

§ 20435. "Local Firefighter"—Training Function

"Local firefighter" means any officer or employee of a contracting agency performing a fire training function for a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, fire prevention, fire training, or fire investigation service even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, or fire investigation service, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

This section shall not apply to the employees of any contracting agency nor to any contracting agency until the agency elects to be subject to this section by amendment to its contract with the board made pursuant to Section 20474 or by express provision in its contract.

(Added by Stats. 1988, Ch. 390, effective 8/11/88; renumbered by Stats. 1995, Ch. 379.)

§ 20436. "County Peace Officer"—Sheriff's Office (Required)

(a) "County peace officer" means the sheriff and any officer or employee of a sheriff's office of a contracting agency, except 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 service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as deputy sheriffs or equal or higher rank irrespective of the duties to which they are assigned.

(b) Any other provision in this part to the contrary notwithstanding, "county peace officer" also includes and means any inspector, investigator, detective, or person with a comparable title, in any district attorney's office of a contracting agency whose principal duties are to investigate crime and criminal cases and who receives compensation for this service.

(c) "County peace officer" does not include persons employed to perform identification or communication duties other than persons in that employment on August 4, 1972, who elected within 90 days thereafter to be local safety members.

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A contracting agency may elect by amendment to its contract to include as "county peace officer" all persons who were employed to perform identification or communication duties on August 4, 1972, and who elect within 60 days of the effective date of the contract amendment to be local safety members. The election shall apply to the person's past as well as future service in the employment held on the effective date but may not apply to service following any subsequent acceptance of appointment to a position other than that held on the effective date. This subdivision does not apply to persons employed and qualified as deputy sheriffs or equal or higher rank.

(d) "County peace officer" does not include any officer or employee who is a local sheriff, as defined in Section 20432 or 20432.5.

(Added by Stats. 1947, Ch. 597; amended by Stats. 1949, Ch. 298; by Stats. 1972, Ch. 560; by Stats. 1973, Ch. 91; by Stats. 1974, Ch. 470, effective 7/11/74, operative 8/1/74; and by Stats. 1984, Ch. 346; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 871; and by Stats. 2002, Ch. 114, effective 7/5/02.)

§ 20437. "County Peace Officer"—Constable or Marshal

(a) "County peace officer" shall also include the constable and each regularly employed deputy constable and the marshal and each regularly employed deputy marshal who serves the superior court. He or she shall receive credit for service as a peace officer for any time he or she served as constable or deputy constable of a township or justice court or marshal or deputy marshal of a municipal court in the same county.

(b) The provisions of this section do not apply to the employees of a contracting agency nor to the agency, unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474, or by express provision in its contract with the board.

(c) "County peace officer" does not include any officer or employee who is a local sheriff, as defined in Section 20432.5.

(Added by Stats. 1953, Ch. 1742; amended by Stats. 1969, Ch. 477; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 114, effective 7/5/02; and Ch. 784; and by Stats. 2003, Ch. 149.)

§ 20438. "County Peace Officer"—Probation Officer or Juvenile Supervision

"County peace officer" shall also include probation officers, deputy and assistant probation officers, and persons employed in a juvenile hall or home and having as their primary duty and responsibility the counseling, supervision and custody of a group of youths assigned or committed to the hall or home. It shall also include persons employed as peace officers pursuant to Section 830.5 of the

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Penal Code, regardless of the administrative title of the position. It shall not include persons employed as teachers, instructors, psychologists, or to provide food, maintenance, health or other supporting services even though responsibility for custody and control of youths may be incident to or imposed in connection with that service.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1971, Ch. 107; amended by Stats. 1981, Ch. 1142; renumbered by Stats. 1995, Ch. 379.)

§ 20439. "County Peace Officer"—Sheriff—Jail

"County peace officer" shall also include employees of the sheriff employed in a county jail, detention or correctional facility and having as their primary duty and responsibility the supervision and custody of persons committed to the jail or facility, whether or not these employees are deputized. It shall not include persons employed as clerks, typists, teachers, instructors, psychologists or to provide food, maintenance, health or supporting services, even though responsibility for custody and control of persons so committed may be incident to, or imposed in connection with, that service or the employees are deputized.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1972, Ch. 1323; renumbered by Stats. 1995, Ch. 379.)

§ 20440. "County Peace Officer"—Sheriff—Courtroom Officers

"County peace officer" shall also include employees of the sheriff employed to attend sessions of the superior or former municipal courts and preserve order in the courtrooms, to guard and maintain the security of prisoners during court appearances, or to summon jurors and take responsibility for them while they are deliberating or absent from the courtroom. It shall not include persons employed as clerks, typists, teachers, instructors or psychologists.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1974, Ch. 1213, effective 9/23/74; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 784.)

§ 20441. "County Peace Officer"—County Park Rangers

"County peace officer" shall also include persons employed by a county parks and recreation department whose primary responsibility is maintaining the peace and whose duties include law enforcement, emergency medical care first response, or fire suppression and prevention in the Park Ranger class series.

This section shall not apply to the employees of any contracting agency nor to any agency unless and until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

(Added by Stats. 1990, Ch. 1039; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2001, Ch. 787.)

§ 20441.5. Repealed

(Repealed by Stats. 2001, Ch. 787.)

§ 20442. Election to Remain Local Miscellaneous Member; Reclass to Local Safety by Board or Court Action

Persons employed in positions that are found to come within the definition of local safety member as the result of administrative review by the board or court action and who were previously miscellaneous members may elect to remain local miscellaneous members by filing written notice of their intent with the board no later than 90 days after the date of notice to the member of their right to make an election. This section shall not apply to persons employed by Santa Clara County.

(Added by Stats. 1977, Ch. 928, effective 9/20/77; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20443. Election to Remain Local Miscellaneous Member

A member who is employed in a position that is reclassified from local miscellaneous to local safety and is made subject to a safety service retirement benefit, other than that provided in Section 21362, 21362.2, or 21363.1, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with the board within 90 days after notification by the board.

(Added by Stats. 1980, Ch. 1264, effective 9/30/80; amended by Stats. 1987, Ch. 542; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 20444. "School Safety Member"—School Police Department

"School safety member" includes any officer or employee of a school district or a community college district which has established a police department pursuant

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to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

This section shall only apply to a school district or a community college district that, pursuant to subdivision (i) of Section 20057, entered into a contract with the board on or after January 1, 1990.

(Added by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379.)

§ 20445. Election to Remain School Miscellaneous Member

A member employed with a school district or community college district, as defined in subdivision (i) of Section 20057, who is in a position that qualifies as a school safety member and made subject to a safety service retirement benefit other than that provided in Section 21362, 21362.2, or 21363.1 may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with the board within 90 days after notification by the board.

(Added by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

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ARTICLE 1. GENERAL PROVISIONS

§ 20460. Public Agency Participation

Any public agency may participate in and make all or part of its employees members of this system by contract entered into between its governing body and the board pursuant to this part. However, a public agency may not enter into the contract within three years of termination of a previous contract for participation.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1974, Ch. 614; and by Stats. 1987, Ch. 1164; repealed and added by Stats. 1995, Ch. 379.)

§ 20460.1. Joint Contract Participation—County and Trial Court

(a) For all counties that contract with the board for the provision of retirement benefits for their eligible employees as of the implementation date of the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8), a trial court and a county in which the trial court is located shall jointly participate in this system by joint contract. All other counties

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and trial courts may elect such joint participation in accordance with the procedures set forth in this chapter. Except as provided in subdivision (b) and except as otherwise provided in this part, the trial court and the county jointly participating in this system shall each have all of the rights and all of the obligations of a contracting agency under the contract and under this part.

(b) A county shall not be responsible for the employer or employee contributions required to be paid on behalf of trial court employees. A trial court shall not be responsible for the employer or employee contributions required to be paid on behalf of county employees.

(c) As used in this chapter, "joint contract" means a contract with the board as set forth in subdivision (a).

(Added by Stats. 2000, Ch. 1010.)

§ 20461. Refusal of Board To Contract

The board may refuse to contract with, or to agree to an amendment proposed by, any public agency for any benefit provisions that are not specifically authorized by this part and that the board determines would adversely affect the administration of this system.

(Added by Stats. 1989, Ch. 10; amended by Stats. 1989, Ch. 1464, effective 10/2/89; repealed and added by Stats. 1995, Ch. 379.)

§ 20462. Existing Pension Trust or Retirement Fund Continued

The governing body of a public agency that has established a pension trust or retirement plan funded by individual or group life insurance or annuity contracts may, notwithstanding any provision of this part to the contrary, enter into a contract to participate in this system making its employees members of this system, and continue the trust or plan with respect to service rendered prior to the contract date. A pension trust or retirement plan so continued shall be deemed not a local retirement, pension, or annuity fund or system for the purpose of this chapter. The public agency shall have all the rights of any other contracting agency to provide prior service benefits for its employees but may elect in the contract instead not to provide a benefit with respect to prior service, in which case the service rendered by its employees prior to the contract date shall be deemed not to be state service.

(Added by Stats. 1959, Ch. 629; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 538.)

§ 20463. Quotation of Contribution—Public Agency

(a) The governing body of a public agency, or an employee organization, recognized under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, that represents employees of the public agency, that desires to consider the

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participation of the agency in this system or a specific change in the agency's contract with this system, may ask the board for a quotation of the approximate contribution to this system that would be required of the agency for that participation or change.

(b) If the governing body of a public agency requests a quotation, it shall provide each employee organization representing employees that will be affected by the proposed participation or change with a copy of the quotation within five days of receipt of the quotation.

(c) If an employee organization requests a quotation, the employee organization shall provide the public agency that will be affected by the proposed participation or change with a copy of the quotation within five days of receipt of the quotation.

(d) The board may establish limits on the number of quotations it will provide for each contract and the fees, if any, to be assessed for each quotation provided. The limits and fees established by the board shall be applied in the same manner to a public agency or an employee organization.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 889.)

§ 20464. Repealed

(Repealed by Stats. 2002, Ch. 889.)

§ 20465. Information to Be Furnished To Board

(a) On request of the board, the public agency shall furnish data concerning its employees as the board requires to make the necessary valuations and investigation into the experience among the employees.

(b) On request of the board, the public agency shall furnish the board a copy of any third party or internal audit performed by or for the public agency.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1982, Ch. 432; and by Stats. 1990, Ch. 1544, effective 9/30/90, operative 12/1/90; repealed and added by Stats. 1995, Ch. 379.)

§ 20466. Determination of Contribution

The approximate contribution quoted by the board and the actual contribution to be made if a contract results shall be determined by actuarial valuations by the actuary of the prior and future service liability under this system, on account of the employees involved in the computation, in the same manner as the contribution required of the state on account of its employees was originally determined, except that in consideration of the number of employees of the agency or other circumstances, a different manner of determining the contribution may be adopted by the board, upon recommendation of the actuary.

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(Added by Stats. 1945, Ch. 123; amended by Stats. 1991, Ch. 83, effective 6/30/91; repealed and added by Stats. 1995, Ch. 379.)

§ 20467. Calculation of Contribution

Notwithstanding Section 20466, the approximate contribution quoted by the board and the actual contributions for a contracting agency that is an employer for purposes of Chapter 9 (commencing with Section 20790) shall be the employer rate under Chapter 9, plus the additional amount required under that chapter on account of liability for service to date of contract and for benefits with respect to which it is not subject to Section 20506, the amount to be determined in accordance with Section 20466.

(Added by Stats. 1967, Ch. 1631; amended by Stats. 1971, Ch. 170; and by Stats. 1973, Ch. 1192; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20468. Contribution Contingency

The approximate and actual contributions are similar to premiums under insurance policies. The approximate contribution quoted by the board to the public agency is subject to the contingency that the actual contribution certified by the board after the approval of a contract may differ from the approximate contribution because of:

(a) Change in number or salaries of employees included.

(b) Change in prior service benefits.

(c) Time elapsed between the quotation and effective date of the contract.

(d) Change in effective date of membership.

(e) Change in manner of determining contributions.

(f) Any changes in the facts or assumptions upon which the quotation was based.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20469. Approval of Proposed Contract

If after receiving the approximate contribution quotation the governing body intends to approve the proposed contract, it shall adopt a resolution giving notice of that intention. The resolution shall contain a summary of the major provisions of the proposed retirement plan. The contract shall not be approved unless an election has been held to permit the employees proposed to be included in this system to express by secret ballot their approval or disapproval of the retirement proposal. Prior to the election each governing body shall be furnished with a schedule of rates of contribution of members, which shall be made available by the governing body to each employee proposed to be included in this system. The ballot at the election shall include the summary of

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the retirement plan as set forth in the resolution. The election shall be conducted in the manner prescribed by the governing body which shall be such as to permit the firefighters, the police officers, the county peace officers, and the other employees proposed to be included in this system to express separately their approval or disapproval.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 597 and Ch. 1264; renumbered by Stats. 1995, Ch. 379.)

§ 20469.1. Approval of Proposed Joint Contract—County and Trial Court

(a) Notwithstanding 20469, if after receiving the approximate contribution quotation the governing body of a county and the presiding officer of a trial court located in the same county intend to approve a proposed joint contract, both shall adopt a resolution giving notice of that intention. Each resolution shall contain a summary of the major provisions of the proposed retirement plan. The contract shall not be approved unless an election has been held to permit the employees proposed to be included in this system to express by secret ballot their approval or disapproval of the retirement proposal. Prior to the election the county governing body and the trial court presiding officer shall be furnished with a schedule of rates of contribution of members, which shall be made available by the governing body and the presiding officer to each employee proposed to be included in this system. The ballot at the election shall include the summary of the retirement plan as set forth in the resolution. The election shall be conducted in the manner prescribed by the governing body and the presiding officer which shall be such as to permit the firefighters, the police officers, the county peace officers, and the other employees proposed to be included in this system to express separately their approval or disapproval.

(b) For all counties that participate in this system by contract with the board as of the implementation date of the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8), the trial court located in the county shall be deemed to elect to participate in this system jointly with the county pursuant to the terms and conditions of the county's contract with the board. The county's contract shall be amended to add the trial court as a contracting party. The amended contract shall be deemed adopted by the county. This amendment shall establish a joint contract.

(Added by Stats. 2000, Ch. 1010.)

§ 20470. Exclusion of Group that Disapproves Proposed Plan

The governing body shall not include in this system any group if a majority of its members voted to disapprove the proposed plan or if two-thirds of those of its members who are also members of an existing local retirement pension or annuity fund or system do not vote for approval of the proposed plan. If there are no members of any group when the election is held, the governing

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body may include the group in this system, and members subsequently entering the group shall become members of this system under the provisions of this part.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 597; and by Stats. 1967, Ch. 1454; renumbered by Stats. 1995, Ch. 379.)

§ 20471. Approval of Contract

Approval of the contract shall be by ordinance adopted by the affirmative vote of a majority of the members of the governing body, not less than 20 days after the adoption of the resolution of intention, or by ordinance adopted by a majority vote of the electorate of the public agency voting thereon.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1970, Ch. 1151; renumbered by Stats. 1995, Ch. 379.)

§ 20471.1. Approval of Joint Contract—County and Trial Court

Notwithstanding Section 20471, and except as provided in subdivision (b) of Section 20469.1, approval of a proposed joint contract by a trial court and county shall be by ordinances or resolutions adopted by both the affirmative vote of a majority of the members of the governing body of a county and the presiding officer of the trial court, not less than 20 days after the latest adoption of the notices of intention. The resolution of the presiding officer of the trial court and the resolution or ordinance of the governing body of the county which approve the joint contract must be adopted within 30 days of each other.

(Added by Stats. 2000, Ch. 1010.)

§ 20472. Contract Errors Corrected by Amendment

Errors in any contract may be corrected through amendments approved by the adoption of suitable resolutions by the contracting parties. Excluded employees may be included by groups through amendments approved in the manner prescribed for the approval of the contracts, except that if there were no members of an excluded group when the contract was entered into, an election among the employees is not required. Additional benefits for prior service provided in this part but not included in a contract, may be included through amendments so approved except that an election among employees is not required.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; renumbered by Stats. 1995, Ch. 379.)

§ 20473. Adjustment to Contribution

Investigations and valuations necessary to adjust the agency's contributions on account of changed benefits or conditions of retirement shall be made in the manner prescribed for valuations and investigations to determine the approximate

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and actual contributions. Amendments in the contract necessary because of those valuations and investigations shall be approved in the manner prescribed for the approval of the contracts, except that an election among employees is not required.

(Added by Stats. 1951, Ch. 701; renumbered by Stats. 1995, Ch. 379.)

§ 20474. Election by Contract Amendment

Whenever by any provision of law an election is given to contracting agencies to subject themselves and their employees to provisions of this part otherwise not applicable to contracting agencies and their employees, and no other means of making the election is expressly provided, any contracting agency may make the election by amendment to its contract with the board approved in the manner provided for the approval of the contracts including an election among the employees affected unless the amendment only adds benefits without affecting members' contributions, in which case the election among the employees is not required. An amendment to a joint contract that has been approved by the governing body of the county shall be deemed approved by the presiding officer of the trial court located within the county. The amendment shall specify the date upon which the agency and its employees shall become subject to the provisions. That date shall not be earlier than the first day following the approval of the contract pursuant to Section 20471, except that if the rate of the employer's contributions changes, the effective date shall not be earlier than the first day of the pay period following the approval. Any election made by amendment to the contract shall be irrevocable until the contract is terminated. However, benefits provided by the amendment may be increased or improved from time to time by further amendment to the contract. From and after the date specified in the amendment to the contract the provisions, as they are in effect at the time of election and as they may be amended in the future, shall apply to the contracting agency and to its employees, and the rights, privileges, duties, liabilities, and responsibilities of the contracting agency and of each of its employees included in this system shall be governed thereby.

(Added by Stats. 1945, Ch. 1201; amended by Stats. 1949, Ch. 298; by Stats. 1979, Ch. 1200; and by Stats. 1987, Ch. 562; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1010.)

§ 20475. Contract Amendments Without Employee Election

Notwithstanding Section 20474, a contracting agency may amend its contract or previous amendments to its contract, without election among its employees, to reduce benefits, to terminate provisions that are available only by election of the agency to become subject thereto, to provide different benefits or provisions or to provide a combination of those changes with respect to service performed after the effective date of the contract amendment made pursuant to this section, if the

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contracting agency has fully discharged all of the obligations imposed by Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 with respect to the contract amendments, and if the amendment provides that:

(a) The contract amendments apply uniformly with respect to all members within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, local sheriffs, local safety members, school safety members, or all local safety members other than local police officers, local firefighters, county peace officers, local sheriffs, local safety members, or school safety members.

(b) A member shall be subject to the contract as amended only if, after the effective date of the contract amendment, the member either (1) receives service credit for the first time within a classification, or (2) the member returns to service within a classification following termination of membership as provided for in subdivision (b) of Section 20340 unless the member has redeposited or elects prior to 90 days after returning to service to redeposit contributions pursuant to Section 20750, in which case the member shall not be subject to the contract amendment.

Amendments to the contract and amendments of previous amendments to the contract may be effected pursuant to this section only once during any three-year period with respect to each of the classifications.

(Added by Stats. 1979, Ch. 1200; amended by Stats. 1982, Ch. 454; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118; and by Stats. 2009, Ch. 130.)

§ 20476. Action By Ordinance

Whenever any provision of this part requires action by ordinance, action by resolution is authorized, except with respect to cities and counties, if the governing body of the public agency is authorized to take action by resolution.

(Added by Stats.1945, Ch. 123; amended by Stats. 1963, Ch. 2098; repealed and added by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379.)

§ 20477. Individual Head of Agency

If the head of a public agency is an individual, rather than a board or other governing body, all actions required or permitted by this part to be taken by ordinance may be taken by order of the individual, and every action required by this part to be taken by a public agency governed by a governing body shall be taken by a public agency governed by an individual.

(Added by Stats. 1945, Ch. 1224; renumbered by Stats. 1995, Ch. 379.)

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§ 20478. Metropolitan Water District

Notwithstanding any other provision of this part, the board of directors of a metropolitan water district, or the governing body of any other public agency, shall adopt any order, motion, resolution or ordinance, required under the provisions of this part to be adopted by a majority vote or by a two-thirds vote or by any other specified vote, by an affirmative vote as constitutes under the provisions of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), or the statute creating or authorizing the organization of any other public agency, a majority vote or a two-thirds vote or other specified vote, as the case may be, of the board or body.

(Added by Stats. 1945, Ch. 1198; amended by Stats. 1967, Ch. 84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20479. Applicability of Contract or Amendment to all Members in a Class

Notwithstanding any other provision of law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, no contract or contract amendment shall be made to provide retirement benefits for some, but not all members of the following membership classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, local sheriffs, local safety officers, or school safety members.

No contract or contract amendments shall provide different retirement benefits for a subgroup, including, but not limited to, bargaining units or unrepresented groups, within those membership classifications.

This section does not preclude changing membership classification from one membership classification to another membership classification or exclusion of groups of members by contract.

For purposes of this section, "benefit" shall not be limited to the benefits set forth in Section 20020.

(Added by Stats. 1988, Ch. 390, effective 8/11/88; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118; by Stats. 2007, Ch. 130; and by Stats. 2009, Ch. 130.)

§ 20479.5. Applicability of Contract or Amendment to all Members in a Class—Exception

Notwithstanding Section 20479, where a memorandum of understanding entered prior to August 11, 1988, provided a different retirement benefit formula for a subgroup of employees in a member classification, that contracting agency may, pursuant to a memorandum of understanding, amend its contract to provide the same retirement formula applicable to that subgroup

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to all or part of the contracting agency's other employees in the same member classification.

(Added by Stats. 2000, Ch. 882.)

§ 20480. Repealed

(Repealed by its own provisions effective 1/1/02.)

§ 20481. Local System Members; Continued Payments to Retirees

All members of a local system included by contract in this system thereupon become subject to this part and cease to be members of the local system. Payments being made to persons who have retired or their survivors or beneficiaries under the local system on the effective date of the contract, or any subsequent amendment thereto, shall be continued and paid by this system at the rates existing on that date under the local system unless the agency elects in its contract or by amendment thereto to provide a recalculation of retirement allowances for persons retired under the local system on the basis of the provisions of the contract. The liability for those payments shall be included in the computation of the prior service liability of the contracting agency. All members of the local system who are members under provisions continuing membership after termination of service shall be deemed members of this system under Section 20731 with credit in this system for all of the service with regard to which membership was continued under the local system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140; by Stats. 1955, Ch. 1705; and by Stats. 1957, Ch. 1081, effective 6/27/57; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2001, Ch. 793.)

§ 20482. Local System—Continuation

Subject to the approval of the board as in the case of all other employees, the contracting agency may elect to continue the local system and to place under this system only a portion of the members of the local system.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20483. Local System—Discontinuation

If all members of the local system become members of this system, the operation of the local system shall be discontinued as of the date provided for in the contract, and if only a part of the members become members of this system, the operation of the local system shall be so discontinued with respect to that part.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612, operative 10/1/51; renumbered by Stats. 1995, Ch. 379.)

§ 20484. Local System—Reciprocal System—Continuation

Notwithstanding Section 20483, if a member of a local system, which is also a reciprocal system pursuant to Section 20351, elects to join this system as permitted by Section 20504, the operation of the local system shall continue.

(Added by Stats. 1989, Ch. 162; renumbered by Stats. 1995, Ch. 379.)

§ 20485. Legislative Intent—Alternative Retirement Plans

It is the intent of the Legislature that contracting agencies in conjunction with recognized local employee organizations, develop alternative retirement plans that provide benefits under a defined contribution program.

(Added by Stats. 1992, Ch. 697, effective 1/1/93 and Ch. 699, effective 9/15/92; renumbered by Stats. 1995, Ch. 379.)

§ 20486. Local System—Transfer of Cash and Securities

(a) Notwithstanding Section 20484, a contracting agency that continued the local system for members who elected to become members of this system prospectively pursuant to Section 20504 may transfer to this system the cash and securities to the credit of the local system and held on account of persons who became members of this system. The transfer of cash and securities shall be made pursuant to Section 20530. The service credited under the local system shall be credited under this system as prior service.

(b) This section shall not apply to the employees of any contracting agency nor to any contracting agency unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made pursuant to Section 20474.

(Added by Stats. 1995, Ch. 124; amended and renumbered by Stats. 1996, Ch. 906.)

§ 20487. Bankruptcy

Notwithstanding any other provision of law, no contracting agency or public agency that becomes the subject of a case under the bankruptcy provisions of Chapter 9 (commencing with Section 901) of Title 11 of the United States Code shall reject any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or any similar provision of law; nor shall the agency, without the prior written consent of the board, assume or assign any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or any similar provision of law.

(Added by Stats. 1996, Ch. 502; amended and renumbered by Stats. 2000, Ch. 1002.)

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ARTICLE 2. CONTRACT PROVISIONS

§ 20500. Consistent and Necessary Provisions

The contract may include any provisions consistent with this part and necessary in the administration of this system as it affects the public agency and its employees.

Whenever in this part an election is given to contracting agencies to subject themselves and their employees to provisions of this part otherwise not applicable to contracting agencies and their employees by amendment to their contracts with the board, any contract made after the effective date of the provision giving the election may include any provisions necessary to give effect to the election of the contracting agency.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1201; repealed and added by Stats. 1995, Ch. 379.)

§ 20501. Contracts With School Employers

Contracts with school employers may include school district employees in this system only with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement Plan.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 62 and Ch. 519.)

§ 20502. Employees To Be Included And Excluded

The contract shall include in this system all firefighters, police officers, county peace officers, local sheriffs, and other employees of the contracting agency, except as exclusions in addition to the exclusions applicable to state employees may be agreed to by the agency and the board. The contract shall not provide for the exclusion of some, but not all, firefighters, police officers, county peace officers, or local sheriffs. The exclusions of employees, other than firefighters, police officers, county peace officers, or local sheriffs, shall be based on groups of employees such as departments or duties, and not on individual employees. The exclusions of groups may be made by amendments to contracts, with respect to future entrants into the group. The board may disapprove the exclusion of a group, if in its opinion the exclusion adversely affects the interest of this system. Membership in this system is compulsory for all employees included under a contract. This section shall not be construed to supersede Sections 20303 and 20305.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 597; by Stats. 1951, Ch. 1680; and by Stats. 1982, Ch. 1220, effective 9/21/82; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 1164; and by Stats. 2006, Ch. 118.)

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§ 20503. Removal of Exclusions

Notwithstanding Section 20055, a contracting agency may amend its contract to remove exclusions prospectively only, and without creating liability for prior service.

(Added by Stats. 1982, Ch. 1220, effective 9/22/82; renumbered by Stats. 1995, Ch. 379.)

§ 20504. Reciprocal System—Removal of Exclusion

Notwithstanding Section 20055, a contracting agency, which is a reciprocal system pursuant to Section 20351, may amend its contract to remove an exclusion of groups of employees of the reciprocal system who elect to become members of this system prospectively only. The amendment shall not create liability for prior service.

(Added by Stats. 1989, Ch. 162; renumbered by Stats. 1995, Ch. 379.)

§ 20505. Immediate Membership for Contracting Agency Employees

Notwithstanding any other provision of law, every employee who enters or reenters service with a contracting agency on and after January 1, 1992, shall immediately become a member of this system irrespective of any probationary period, if the employee would otherwise be eligible for membership. This system shall not exclude employees, or groups of employees, solely on the basis of their status as probationary employees.

(Added by Stats. 1991, Ch. 892, effective 10/14/91; renumbered by Stats. 1995, Ch. 379.)

§ 20506. Applicability of this Part to Contracting Agency

Any contract heretofore or hereafter entered into shall subject the contracting agency and its employees to all provisions of this part and all amendments thereto applicable to members, local miscellaneous members, or local safety members except those provisions that are expressly inapplicable to a contracting agency until it elects to be subject to those provisions.

(Added by Stats. 1945, Ch. 123; repealed by Stats. 1947, Ch. 1140; added by Stats. 1953, Ch. 845; amended by Stats. 1959, Ch. 626; repealed by Stats. 1961, Ch. 624; added by Stats. 1967, Ch. 1631; repealed by Stats. 1971, Ch. 170; added by Stats. 1971, Ch. 170; amended by Stats. 1974, Ch. 1399; renumbered by Stats. 1995, Ch. 379.)

§ 20507. Applicability of this Part—Contracting Agency Not an Employer

A contracting agency whose contract is effective on and after January 1, 1974, that does not become an employer for purposes of Chapter 9 (commencing with

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Section 20790), or a contracting agency that ceases to be an employer, shall be subject to all provisions of the retirement law as it exists on the date of contract or on the date a contracting agency ceases to be an employer, whichever the case may be, and as it may be amended thereafter excepting the provisions of Chapter 9, other than Section 20834, and those amendments thereafter as are expressly made inapplicable to a contracting agency until the agency elects to be subject thereto.

(Added by Stats. 1973, Ch. 1192; renumbered by Stats. 1995, Ch. 379.)

§ 20508. Succeeding Agency

When a contracting agency is succeeded by another agency, whether or not the former agency ceases to exist, or when the functions of a contracting agency are assumed by a succeeding agency, the succeeding agency, may, if it is not already a contracting agency, become a contracting agency of this system. If a succeeding agency is or becomes a contracting agency, the contract of the former agency shall be merged into the contract of the succeeding agency.

Whenever there is a merger of contracts pursuant to this section, whether in whole or in part, the assumed contracts, or portions thereof, of the former agency's contract shall cease to exist and the contract of the succeeding agency shall be deemed a continuation of the prior agency's contract. However, any changes in contract terms in the succeeding agency's contract with respect to employees of the former agency shall be considered as a new contract with respect to those provisions.

Accumulated contributions held for or made by the former agency and its employees, and assets derived from those contributions, shall be merged with analogous contributions under the contract of the succeeding agency. Credit for prior and current service to members under the former agency's contract, which accrued while they were eligible for membership, shall not be reduced by the merger. Employees of a noncontracting public agency included in the succeeding agency contract shall become members in the manner applicable to employees of other contracting agencies and shall receive credit for service accordingly.

The liability to this system with respect to service credited under the former agency's contract shall become a contractual liability of the succeeding agency. The former and succeeding agencies may agree to apportion and adjust between them any payments with respect to service credit liability. However, no agreement shall operate to defeat the liability of the succeeding agency with respect to that service.

(Added by Stats. 1949, Ch. 953; amended by Stats. 1987, Ch. 562; renumbered by Stats. 1995, Ch. 379.)

§ 20509. When School District Ceases to Exist

When a school district ceases to exist and is succeeded by, or the territory thereof is attached to, another school district that is a contracting agency, the contract under

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which the contracting agency participates in this system shall be considered, with respect to the former district and its employees, a continuation of the contract under which the former district participated, with the changes as the succeeding contract contains. The board shall determine the amount of accumulated contributions held under the contract of the county superintendent of schools which had been made by the former district, and the contributions shall be transferred to the credit of the contract under which the succeeding district participates.

Nothing in this section or Section 20508 shall authorize a school district, the formation of which becomes effective for all purposes after October 1, 1961, to participate in this system except as provided in Chapter 6 (commencing with Section 20610).

(Added by Stats. 1949, Ch. 953; repealed and added by Stats. 1961, Ch. 624; amended by Stats. 1987, Ch. 562; renumbered by Stats. 1995, Ch. 379.)

§ 20510. Contract with Hospital—Continuation of City's Contract

When a hospital becomes a contracting agency pursuant to subdivision (p) of Section 20057, the contract shall be construed as a continuation of the city's contract for all purposes of this part, and the sponsoring city, the hospital, and the board shall enter into an agreement under the terms of which hospital employees shall retain, under the hospital's contract, all of the retirement rights and benefits that have accrued to them under the city's contract. The board shall compute the unpaid costs, if any, of the accrued rights and benefits, and the city shall pay to the board that amount in a manner and at times satisfactory to all parties to the agreement. Thereafter, the city shall be relieved and discharged from all liabilities on account of rights and benefits that have accrued to the hospital employees, and the hospital shall then become liable for those rights and benefits under its contract with the board.

On and after the effective date of the hospital's contract with the board, neither the city nor the hospital shall be an employer as defined in Section 20790.

All employees of the city who have retired or separated from employment prior to the effective date of the hospital's contract shall be treated as retired city employees or former city employees, as the case may be, for all purposes of this part, whether or not they ever worked in the hospital.

(Added by Stats. 1979, Ch. 103, effective 6/8/79; renumbered by Stats. 1995, Ch. 379.)

§ 20511. Merged Contract

Notwithstanding this article or Article 5 (commencing with Section 20570), when all or a portion of one agency's contract is merged into that of another, the retirement allowances may be computed separately for service under the former contract and service under the succeeding contract. In these cases, a transferred member shall be

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subject to the terms and conditions of the succeeding agency's contract as the member was a new employee of the succeeding agency at the time of transfer.

Furthermore, when all or a portion of one agency's contract is merged into that of another, and when eligibility for membership is different between the two contracts, the differences shall not create prior service liabilities as against either agency, and transferred members shall not be entitled under either contract to credit for service rendered when they were not eligible for membership.

(Added by Stats. 1980, Ch. 316, effective 7/3/80; amended by Stats. 1983, Ch. 395; and by Stats. 1987, Ch. 562; renumbered by Stats. 1995, Ch. 379.)

§ 20512. Election—Employees Included in Social Security System

Whenever in this part an election is given to contracting agencies to subject themselves and their employees to provisions of this part otherwise not applicable to contracting agencies and their employees, a contracting agency may exercise the right of election independently with respect to its employees included in the insurance system established under Title II of the Social Security Act and with respect to its employees not so included and with respect to those employees who are local police officers, local firefighters, county peace officers, local safety members other than local police officers or local firefighters or county peace officers, and local miscellaneous members.

(Added by Stats. 1959, Ch. 626; amended by Stats. 1974, Ch. 1315; renumbered by Stats. 1995, Ch. 379.)

§ 20513. Contract of School District

Notwithstanding the election given in Section 20514 to contracting agencies, whether to subject themselves and their employees thereto, the contract of school districts in which the average daily attendance of all districts combined is in excess of 400,000 and which are governed by the same governing board, without action by the governing board, shall be subject to that section and shall include all provisions authorized by Section 20514 to be included therein by contract amendment.

(Added by Stats. 1963, Ch. 1401; amended by Stats. 1978, Ch. 1180, effective 9/26/78; and by Stats. 1980, Ch. 481; renumbered by Stats. 1995, Ch. 379.)

§ 20514. Effective Date of Coverage—Federal System

If the effective date of coverage under the federal system of members who are employees of a contracting agency under this system is prior to the time employee federal contributions are first deducted from the salaries and wages of the employees and a reduced benefit is provided with respect to service from and after the effective date of coverage, member contributions shall be transferred in the manner and to the extent provided in this section to the Old Age and Survivors'

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Insurance Revolving Fund and applied to payment of employee federal contributions for the period prior to the deductions.

There shall be transferred from the member's accumulated contributions an amount equal to employee federal contributions due for the member. The amount so transferred shall not exceed the difference between the total normal contributions of the member and the normal contributions that would have been credited to his or her account had the reduced rate of contribution provided in the amended contract with the public agency been in effect from and after the effective date of coverage, assuming that contributions in any year were made in equal monthly installments.

The amount by which the retroactive employee contributions due for a member exceeds the amount transferred from the employee account shall be transmitted to the fund by the contracting agency and constitute an indebtedness of the member to the employer and a lien on any salary or wages payable to the employee or on his or her account.

If the contract is or has been amended to provide for the transfer of retroactive employee contributions in the manner provided in this section, the amount by which the total normal contributions of each member for the period subsequent to the effective date of coverage under the federal system less the total normal contributions that would have been credited to the account of the member had the reduced rate of contribution provided in the amended contract with the public agency been in effect from and after that date of coverage exceed the employee federal contributions for the member for the period after the date of coverage, shall be paid to the member.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1961, Ch. 1000; by Stats. 1967, Ch. 84; by Stats. 1971, Ch. 319; by Stats. 1973, Ch. 107, effective 6/20/73; and by Stats. 1988, Ch. 1089; renumbered by Stats. 1995, Ch. 379.)

§ 20515. Effective Date of Coverage Under Federal System—Contract Option

(a) A contracting agency that has included this section in its contract with the board, by express provision or by amendment, on or before December 31, 2001, may provide that, notwithstanding any other provision of this part, service that was in fact also covered under the federal system shall not be deemed as service that was also covered under the federal system, for all purposes of this part, except for the benefits provided by Article 3 (commencing with Section 21570) of Chapter 14. The amendment shall only be applicable to persons who are employed on and after the effective date of the amendment.

(b) The amendment made to this section by Chapter 636 of the Statutes of 1994 shall apply only to a contracting agency that includes this section in its contract on and after January 1, 1995, and on or before December 31, 2001.

(Added by Stats. 1980, Ch. 345; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

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§ 20516. Cost Sharing

(a) Notwithstanding any other provision of this part, with or without a change in benefits, a contracting agency and its employees may agree, in writing, to share the costs of the employer contribution. The cost sharing pursuant to this section shall also apply for related nonrepresented employees as approved in a resolution passed by the contracting agency.

(b) The collective bargaining agreement shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall be contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part. The contributions shall be uniform, except as described in subdivision (c), with respect to all members within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, and all local safety members other than local police officers, local firefighters, and county peace officers. The balance of any costs shall be paid by the contracting agency and shall be credited to the employer's account. An employer shall not use impasse procedures to impose member cost sharing on any contribution amount above that which is authorized by law.

(c) Member cost sharing may differ by classification for groups of employees subject to different levels of benefits pursuant to Sections 7522.20, 7522.25, and 20475, or by a recognized collective bargaining unit if agreed to in a memorandum of understanding reached pursuant to the applicable collective bargaining laws.

(d) This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts. Contributions provided by this section shall be withheld from member compensation or otherwise collected when the contract amendment becomes effective.

(e) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(f) Nothing in this section shall preclude a contracting agency and its employees from independently agreeing in a memorandum of understanding to share the costs of any benefit, in a manner inconsistent with this section. However, any agreement in a memorandum of understanding that is inconsistent with this section shall not be part of the contract between this system and the contracting agency.

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(g) If, and to the extent that, the board determines that a cost-sharing agreement under this section would conflict with Title 26 of the United States Code, the board may refuse to approve the agreement.

(h) Nothing in this section shall require a contracting agency to enter into a memorandum of understanding or collective bargaining agreement with a bargaining representative in order to increase the amount of member contributions when such a member contribution increase is authorized by other provisions under this part.

(Added by Stats. 1978, Ch. 189; amended by Stats. 1986, Ch. 491, by Stats. 1988, Ch. 331 and Ch. 1193; and by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2012, Ch. 297; and by Stats. 2013, Ch. 76.)

§ 20516.5. Cost Sharing—50 Percent of Normal Costs—Contracting Agencies or School Employers—Members prior to January 1, 2013

(a) Equal sharing of normal costs between a contracting agency or school employer and their employees shall be the standard. It shall be the standard that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution.

(b) Notwithstanding any other provision of this part, a contracting agency or a school district may require that members pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 8 percent of pay for local miscellaneous or school members, no more than 12 percent of pay for local police officers, local firefighters, and county peace officers, and no more than 11 percent of pay for all local safety members other than police officers, firefighters, and county peace officers.

(c) Before implementing any change pursuant to subdivision (b), for any represented employees, the employer shall complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and factfinding. Subdivision (b) shall become operative on January 1, 2018. Subdivision (b) shall not apply to any bargaining unit when the members of that contracting agency or school district are paying for at least 50 percent of the normal cost of their pension benefit or the contribution rates specified in subdivision (b) under an agreement reached pursuant to Section 20516.

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

ARTICLE 3. CONTRACTING AGENCY FINANCIAL OBLIGATIONS

§ 20530. Transfer of Funds

Any cash and securities to the credit of the local system and held on account of persons who become members of this system shall be transferred to this system, as of the effective date of the contract. The board may make arrangements with the

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agency for the transfer of assets, other than an amount equal to the total member contributions, over an appropriate period following the effective date of the contract, if it finds that transfer as of the effective date is not possible without hardship to the agency because of contractual restrictions on the return of assets of the local system held by an insurance carrier. The board shall in that case credit, as interest income, the portion of the assets transferred as is necessary to compensate the retirement fund for loss of earnings because of the delay in transfer, the amount to be determined by applying a rate that is equal to the difference between the average rate of earnings of the fund on investments made in fixed income securities during the fiscal year preceding the date of contract and the annual interest rate to the balance of the assets not transferred. The value at which the securities shall be credited to the contracting agency shall be determined by the board. In crediting transferred cash, as the contracting agency's contributions, the board may fix the credit, by writing down the book value of securities purchased with that cash, at an amount that will result in an interest return under the securities at least equal to the current rate of interest credited to contributions. As of that date, the governing body or head of the local system shall certify the proportion, if any, of its funds that represents the accumulated contributions of the members, and the relative shares of the members.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 1140; and by Stats. 1973, Ch. 814; repealed and added by Stats. 1995, Ch. 379.)

§ 20530.1. Credit for Employees' Local System Service—Contracting Agencies

(a) An agency whose contract provides for participation of its employees in this system may request the employees' service, with the contracting agency, prior to the date the employees became members of this system, be credited under this system.If the employees are members of a local retirement system and received service and contribution credits under that local retirement system, credit in this system may be granted if the system administrator certifies that the local system may be transferred.

(b) This section shall apply only to members employed by the contracting agency on the effective date of the contract or the amendment to the contract in which the contracting agency elects to be subject to the provisions of this section.Any cash and securities to the credit of the local retirement system and held on account of affected employees shall be transferred to this system as of said effective date.

(c) Notwithstanding subdivision (b), the board may make arrangements with the agency for the transfer of all or a portion of assets, or all or a portion of service credit, over an appropriate period following the effective date of the contract or the amendment to the contract, if it finds that transfer as of the effective date is not

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possible without hardship to the agency or its employees. Nothing in these arrangements for the partial transfer of assets or service credit shall affect the crediting of service for purposes of determining eligibility for benefits under this system.Interest may be charged at the discretion of the board.

(d) This section may not apply to any contracting agency unless and until the agency elects to be subject to this section by contract or amendment to the contract made in the manner prescribed for approval of contracts.

(Added by Stats. 1998, Ch. 996; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20531. Local System—Credit of Shares

(a) Shares of members in the funds of a local employer shall be credited to the respective individual accounts of the local agency members who have been included in this system, and administered as if made during membership in this system, except that the annuity provided by those contributions with accumulated interest shall be deducted first from the pension that otherwise would be payable on account of prior service and the balance of the contributions with accumulated interest shall be deducted from the pension that otherwise would be payable on account of current service. The total of the funds transferred to this system shall be offset against the prior or current service liability, as the case may be, before determining the contribution to be paid by the contracting agency.

(b) A former member of the local retirement system who withdrew any contributions prior to the effective date of that agency's contract with this system is entitled to credit for the service upon which those contributions were made if he or she elects to deposit any of those withdrawn contributions with this system under the terms and conditions specified in Section 20750. Any amounts so deposited with this system shall be administered as provided in this section.

(c) As used in subdivision (b), "former member" shall also include any former member of the local retirement system who failed to exercise the right of election pursuant to paragraph (3) of subdivision (b) of Section 24810 of the Education Code.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140; by Stats. 1951, Ch. 612; by Stats. 1953, Ch. 1186; by Stats. 1966, 1st Ex. Sess., Ch. 73; by Stats. 1988, Ch. 331, effective 7/14/88; by Stats. 1994, Ch. 408; and by Stats. 1995, Ch. 91; amended and renumbered by Stats. 1996, Ch. 906.)

§ 20532. Contracting Agency Contributions

The contracting agency shall make the contribution for its employees in this system, as recommended by the actuary and approved by the board and certified by it to the contracting agency.

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The contribution may consist of fixed sums, percentages of compensation of contract members, or both, and shall be paid to this system as provided in the contract.

The actual contribution is subject to adjustment by the board as may be necessary on account of any additional prior service credits that the contracting agency may desire to provide for its employees in this system or on account of experience under this system as determined by periodical investigation, valuation and determination required to be made by the board, including adjustments determined as necessary by the board, even after the total contributions determined, plus subsequent adjustments, if any, have been completely paid.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379.)

§ 20533. Employer Contribution Rate Applied to Compensation

The employer contribution rate adopted under this part, or because of amendments to the contract or to this part, apply to all compensation upon the basis of which member's contributions are deducted after those employer contribution rates became or become effective.

If correction of the amount of compensation reported is required, the employer contributions shall be computed using the employer contribution rate in effect at the time that the compensation requiring adjustment was earned.

(Added by Stats. 1949, Ch. 1215; amended by Stats. 1982, Ch. 1220, effective 9/22/82; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 2003, Ch. 10, effective 5/14/03; and by Stats. 2014, Ch. 237.)

§ 20534. Payment of Prior Service Liability

The board may make arrangements with any contracting agency for the payment of the prior service liability on terms that its financial condition will permit.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20535. Payment of Expense for Determining Contribution

The expense of determining initially the approximate and actual contributions, with respect to its employees, shall be assessed against and paid by the public agency on whose account it is incurred. Payment shall be made directly to the consulting actuary, if any, and directly to the board for services rendered by its employees.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20536. Assessment of Costs of Administering System

(a) The board may include each year in the contribution required of the contracting agency a reasonable amount, which may differ from agency to agency, to cover the costs of administering this system as it affects the active and retired

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employees of that agency. The board may also assess a contracting agency a reasonable amount to cover costs incurred because of the agency's failure to submit reports and forward contributions on a timely basis. The payments shall be credited to the current appropriation for support of the board and available for expenditure by the board.

(b) Upon request, the board shall provide information to a contracting agency concerning the amount of administrative costs to be charged to each contracting agency with respect to those plans within the system in which the contracting agency participates.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1970, Ch. 435; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 190.)

§ 20537. Interest Charged Until Payment Received

The board may charge interest on the amount of any payment due and unpaid by a contracting agency until payment is received. Interest shall be charged at the actuarial interest rate. The interest shall be deemed interest earnings for the year in which the late payment is received.

(Added by Stats. 1970, Ch. 435; amended by Stats. 1982, Ch. 863; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 118.)

§ 20538. Electronic Payments

(a) All amounts due to the retirement system by a contracting agency under this part shall be paid through an electronic funds transfer method prescribed by the board. This payment requirement is effective upon declaration by the board.

(b) A contracting agency that is unable, for good cause, to comply with subdivision (a), may apply to the board for a waiver that allows the agency to pay in an alternate manner as prescribed by the board, but not by credit card payment.

(Added by Stats. 2009, Ch. 118.)

ARTICLE 4. ALTERNATIVE SUPPLEMENTAL SERVICE RETIREMENT PLANS FOR LOCAL MISCELLANEOUS MEMBERS OF RIVERSIDE COUNTY

§ 20550. Participation in Plan

Notwithstanding any provision of this chapter, Riverside County may, after executing an agreement therefor, separate and apart from Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, with representatives of recognized employee organizations, as defined by subdivision (b) of Section 3501, amend its contract to provide the alternate benefit afforded by Section 20552 for its local miscellaneous members whose service is included in the federal system and the benefit afforded by Section 20553 for all its local

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miscellaneous members. The employer's contribution rate shall be fixed pursuant to this article.

Participation in the plan afforded by this article shall be available to any employee of the contracting agency who is a local miscellaneous member subject to Section 21353 on the day immediately preceding the effective date of a contract amendment entered into pursuant to this article.

Each contracting agency shall ensure that each eligible member receives sufficient information to permit an informed election, is counseled regarding the financial implications of the foregoing choices, and receives an election document. The election document shall be filed with the contracting agency.

A local miscellaneous member who is subject to this article shall also be subject to all other provisions of this part. However, in the event of a conflict, this article shall supersede and prevail over provisions or the application of provisions otherwise contained in this part.

(Added by Stats. 1986, Ch. 981, effective 9/30/86; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20551. Open Period For Election

A person who becomes a local miscellaneous member of a contracting agency on or after the effective date of the agency's contract to be subject to this article shall be subject to the benefits provided in Section 21353 but may, during an open 120-day period in each calendar year, to be determined by the contracting agency, make an irrevocable election to be subject, for all future local miscellaneous service with the contracting agency on and after the first of the month following the filing of the election with the employer, to the benefits provided by Section 20552 or Section 20553. A current member may make an irrevocable election to be subject to the benefits provided for in this article for all future local miscellaneous service with the contracting agency during an annual open 120-day period to be determined by the contracting agency and that shall be effective on the first of the month following the filing of the election with the employer.

Notwithstanding any other provision of this article, a member who has elected to be subject to Section 20552 may, at any annual open period next following the attainment of 10 years of credited service with the contracting agency, irrevocably elect to be subject, prospectively only, to the benefits provided by Section 21353 or Section 20553. Any person who makes that election may never thereafter change that election.

(Added by Stats. 1986, Ch. 981; renumbered by Stats. 1995, Ch. 379.)

§ 20552. Local Miscellaneous 1.5% at Age 65—Riverside County

The combined current and prior service pensions for a local miscellaneous member whose service is subject to this article is a pension derived from the

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contributions of the employee which, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement shall equal the fraction of one-hundredth 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 member's number of years of local miscellaneous service subject to this article:

Age at Retirement	Fraction
55	.5000
55 1/4	.5250
55 1/2	.5500
55 3/4	.5750
56	.6000
56 1/4	.6250
56 1/2	.6500
56 3/4	.6750
57	.7000
57 1/4	.7250
57 1/2	.7500
57 3/4	.7750
58	.8000
58 1/4	.8250
58 1/2	.8500
58 3/4	.8750
59	.9000
59 1/4	.9250
59 1/2	.9500
59 3/4	.9750
60	1.0000
60 1/4	1.0250
60 1/2	1.0500
60 3/4	1.0750
61	1.1000
61 1/4	1.1250
61 1/2	1.1500
61 3/4	1.1750
62	1.2000
62 1/4	1.2250
62 1/2	1.2500
62 3/4	1.2750
63	1.3000
63 1/4	1.3250
63 1/2	1.3500
63 3/4	1.3750
64	1.4000

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Age at Retirement	Fraction
64 1/4	1.4250
64 1/2	1.4500
64 3/4	1.4750
65	1.5000

Notwithstanding any other provision of this part, the retirement allowance formula for any member subject to this section who has 35 years of credited service and attains age 55 years, is the fraction of final compensation set forth above at age 65 multiplied by the current and prior service subject to this section that the member is credited with at retirement.

A local miscellaneous member subject to this section shall be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with five years of state service.

(Added by Stats. 1986, Ch. 981; renumbered by Stats. 1995, Ch. 379.)

§ 20553. Local Miscellaneous 2.418% at Age 60—Riverside County

The combined current and prior service pensions for a local miscellaneous member whose service is subject to this section is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 local miscellaneous service subject to this article, with which the member is entitled to be credited at retirement:

Age at Retirement	Fraction
50	.688
50 1/4	.698
50 1/2	.709
50 3/4	.719
51	.730
51 1/4	.741
51 1/2	.753
51 3/4	.764
52	.776
52 1/4	.788
52 1/2	.800
52 3/4	.813
53	.825
53 1/4	.839

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Age at Retirement	Fraction
53 1/2	.852
53 3/4	.865
54	.879
54 1/4	.893
54 1/2	.908
54 3/4	.923
55	.937
55 1/4	.953
55 1/2	.969
55 3/4	.985
56	1.000
56 1/4	1.017
56 1/2	1.034
56 3/4	1.050
57	1.067
57 1/4	1.084
57 1/2	1.101
57 3/4	1.119
58	1.136
58 1/4	1.154
58 1/2	1.173
58 3/4	1.191
59 and over	1.209

The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member that has also been included in the federal system.

A local miscellaneous member subject to this section shall be retired for service upon his or her written applications to the board if he or she has attained age 50 and is credited with five years of state service.

(Added by Stats. 1986, Ch. 981; renumbered by Stats. 1995, Ch. 379.)

§ 20554. Member Contribution Rate

Notwithstanding any provision of Chapter 8 (commencing with Section 20670), the normal rate of contribution for a local miscellaneous member subject to Section 20552 shall be 2 percent of the compensation paid to the member. A contracting agency may pay all or a portion of the normal contributions required to be paid by a local miscellaneous member pursuant to Section 20691.

This section shall be construed as if it were a part of Chapter 8 (commencing with Section 20670).

(Added by Stats. 1986, Ch. 981; renumbered by Stats. 1995, Ch. 379.)

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§ 20555. Member Contribution Rate—Service Not in Federal System

(a) The normal rate of contribution for a local miscellaneous member subject to Section 20553 whose service is not included in the federal system shall be 8.25 percent of the compensation per month paid to the member.

(b) The normal rate of contribution for a local miscellaneous member whose service is included in the federal system shall be 8.25 percent of compensation in excess of one hundred thirty-three dollars and thirty-three cents ($133.33) per month paid to the member. The rates of contribution established for local miscellaneous members in this section shall apply only to the compensation paid the member on and after the date that the member becomes subject to Section 20553.

This section shall be construed as if it were part of Chapter 8 (commencing with Section 20670).

(Added by Stats. 1986, Ch. 981; renumbered by Stats. 1995, Ch. 379.)

§ 20556. Employer Contribution Rate

The employer contribution rate of a contracting agency subject to this article shall not be reduced because of concurrent coverage of social security.

(Added by Stats. 1986, Ch. 981; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 5. TERMINATION OF CONTRACTS

§ 20570. Termination By Governing Body

(a) If the contract has been in effect for at least five years and was approved by an ordinance or resolution adopted by the governing body of the contracting agency, the governing body may terminate it by the adoption of a resolution giving notice of intention to terminate, and by the adoption, not less than one year thereafter by the affirmative vote of two-thirds of the members of the governing body, of an ordinance or resolution terminating the contract. Termination shall be effective with board approval on the date designated in the ordinance or resolution terminating the contract.

(b) If the contract is a joint contract and the joint contract has been in effect for at least five years, the contract may be terminated by the adoption of trial court and county resolutions giving notice of intention to terminate, and by the adoption, not less than one year thereafter by the affirmative vote of two-thirds of the members of the governing body of the county, and by the presiding officer of the trial court, of an ordinance or resolution terminating the contract. Termination shall be effective with board approval on the date designated in the ordinance terminating the contract.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1959, Ch. 779; by Stats. 1979, Ch. 120, effective 6/15/79; and by Stats. 1983, Ch. 639, effective 9/1/83; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1010.)

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§ 20571. Termination of Contract Approved By Ordinance Adopted By Electorate

If the contract has been in effect for at least five years and was approved by an ordinance adopted by a majority vote of the electorate, termination by the contracting agency may be effected not less than one year after authority has been granted by ordinance adopted by a majority vote of the electorate of the contracting agency voting thereon. Termination shall be effective with board approval on the date designated in the ordinance or resolution terminating the contract.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1955, Ch. 1411; by Stats. 1979, Ch. 120, effective 6/15/79; by Stats. 1980, Ch. 481; and by Stats. 1983, Ch. 639, effective 9/1/83; repealed and added by Stats. 1995, Ch. 379.)

§ 20571.5. Termination of Inactive Member Group

Notwithstanding any other provision of this article, the board may enter into an agreement with the governing body of a contracting agency for the termination of a portion of the contract with respect to a member classification with no active employees. The terms of the agreement shall be reflected in an amendment to the agency's contract with the board. The board may require that the portion of the contract being terminated be in effect for at least five years. Upon the termination of a portion of a contract, the board shall do the following:

(a) Hold for the benefit of the members of this system who are credited with service rendered as employees of the contracting agency, and for the benefit of beneficiaries of this system who are entitled to receive benefits on account of that service, the portion of the accumulated contributions then held by this system and credited to, or as having been made by, the agency. This portion of the accumulated contributions shall not exceed the difference between the following:

(1) An amount actuarially equivalent, including contingencies for mortality fluctuations, as determined by the actuary and approved by the board, to the amount this system is obligated to pay after the effective date of termination to, or on account of, persons who are or have been employed by, and on account of service rendered by them to, the agency.

(2) The contributions, with credited interest thereon, then held by this system as having been made by those persons as employees of the agency.

(b) Merge all plan assets and liabilities into the terminated agency pool to provide exclusively for the payment of benefits to members of these plans.

(1) If the sum of the accumulated contributions is less than the actuarial equivalent specified in paragraph (1) of subdivision (a), the agency shall contribute to the system, under the terms fixed by the board, an amount equal to the difference between the amount specified in paragraph (1) of subdivision (a) and the accumulated contributions.

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(2) If the sum of accumulated contributions exceeds the amount specified in paragraph (1) of subdivision (a), the excess contributions shall be merged into the active plan or plans of the contracting agency, as determined by the chief actuary.

(c) Enter into an agreement with the governing body of a contracting agency terminating a portion of a contract in order to ensure both of the following:

(1) The final compensation used in the calculation of benefits of its employees is calculated in the same manner as the benefits of employees of agencies that are not terminating, regardless of whether the employees of the terminating agency retire directly from employment with the contracting agency terminating a portion of a contract or continue in other public service.

(2) Related necessary adjustments in the employer's contribution rate are made, from time to time, by the board prior to the date of termination to ensure adequate funding of benefits or the governing body of the contracting agency terminating a portion of a contract and the board agree to another actuarially sound payment technique, including a lump-sum payment at termination.

(Added by Stats. 2008, Ch. 261.)

§ 20572. Failure to Pay Contributions or File Information

(a) If a contracting agency fails for 30 days after demand by the board to pay any installment of contributions required by its contract, or fails for three months after demand by the board therefore to file any information required in the administration of this system with respect to that agency's employees, or if the board determines that the agency is no longer in existence, the board may terminate that contract by resolution adopted by a majority vote of its members effective 60 days after notice of its adoption has been mailed by registered mail to the governing body of the contracting agency.

(b) Notwithstanding Section 20537, if a contracting agency fails to remit the contributions when due, the agency may be assessed interest at an annual rate of 10 percent and the costs of collection, including reasonable legal fees, when necessary to collect the amounts due. In the case of repeated delinquencies, the contracting agency may be assessed a penalty of 10 percent of the delinquent amount. That penalty may be assessed once during each 30-day period that the amount remains unpaid.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140; and by Stats. 1983, Ch. 639, effective 9/1/83; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 462.)

§ 20573. Liabilities of Terminating Agency

Notwithstanding any other provision of law, the board may negotiate with the governing board of the terminating agency, or the governing board of any agency or agencies which may be assuming any portion of the liabilities of the

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terminating agency as to the effective date of termination and the terms and conditions of the termination and of the payment of unfunded liabilities.

For purposes of payment of unfunded actuarial liabilities this section shall also apply to inactive contracting agencies, or an inactive member category as determined by the board.

(Added by Stats. 1983, Ch. 639, effective 9/1/83; renumbered by Stats. 1995, Ch. 379.)

§ 20574. Lien on Assets of Terminating Agency

A terminated agency shall be liable to the system for any deficit in funding for earned benefits, as determined pursuant to Section 20577, interest at the actuarial rate from the date of termination to the date the agency pays the system, and for reasonable and necessary costs of collection, including attorney's fees. The board shall have a lien on the assets of a terminated contracting agency, subject only to a prior lien for wages, in an amount equal to the actuarially determined deficit in funding for earned benefits of the employee members of the agency, interest, and collection costs. The assets shall also be available to pay actual costs, including attorneys' fees, necessarily expended for collection of the lien.

(Added by Stats. 1982, Ch. 77, effective 3/1/82; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 462.)

§ 20575. Agreement to Ensure Adequate Funding of Benefits

Notwithstanding any other provision of this part to the contrary, upon request of a terminating agency, the board shall enter into an agreement with the governing body of a terminating agency in order to ensure that (a) the final compensation used in the calculation of benefits of its employees shall be calculated in the same manner as the benefits of employees of agencies that are not terminating, regardless of whether they retire directly from employment with the terminating agency or continue in other public service; and (b) related necessary adjustments in the employer's contribution rate are made, from time to time, by the board prior to the date of termination to ensure that benefits are adequately funded or any other actuarially sound payment technique, including a lump-sum payment at termination, is agreed to by the governing body of the terminating agency and the board.

The terminating agency that will cease to exist shall notify the board not sooner than three years nor later than one year prior to its termination date of its intention to enter into agreement pursuant to this section. The terms of the agreement shall be reflected in an amendment to the agency's contract with the board.

If the board, itself, determines that it is not in the best interests of the system, it may choose not to enter into an agreement pursuant to this section.

(Added by Stats. 1993, Ch. 689; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 115; and by Stats. 1998, Ch. 678.)

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§ 20576. Accumulated Contributions Held By System

(a) Upon the termination of a contract, the board shall hold for the benefit of the members of this system who are credited with service rendered as employees of the contracting agency and for the benefit of beneficiaries of this system who are entitled to receive benefits on account of that service, the portion of the accumulated contributions then held by this system and credited to or as having been made by the agency that does not exceed the difference between (1) an amount actuarially equivalent, including contingencies for mortality fluctuations, as determined by the actuary and approved by the board, the amount this system is obligated to pay after the effective date of termination to or on account of persons who are or have been employed by, and on account of service rendered by them to, the agency, and (2) the contributions, with credited interest thereon, then held by this system as having been made by those persons as employees of the agency.

(b) All plan assets and liabilities of agencies whose contracts have been terminated shall be merged into a single pooled account to provide exclusively for the payment of benefits to members of these plans. Recoveries from terminated agencies for any deficit in funding for earned benefits for members of plans of terminated agencies, and interest thereon, shall also be deposited to the credit of the terminated agency pool.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224 and Ch. 1366; by Stats. 1949, Ch. 298; by Stats. 1951, Ch. 614; and by Stats. 1983, Ch. 385; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2003, Ch. 462.)

§ 20577. Accumulated Contributions—Amount of Difference

If, at the date of termination, the sum of the accumulated contributions credited to, or held as having been made by, the contracting agency and the accumulated contributions credited to or held as having been made by persons who are or have been employed by the agency, as employees of the agency, is less than the actuarial equivalent specified in clause (1) of subdivision (a) of Section 20576, the agency shall contribute to this system under terms fixed by the board, an amount equal to the difference between the amount specified in clause (1) of subdivision (a) of Section 20576 and the accumulated contributions. The amount of the difference shall be subject to interest at the actuarial rate from the date of contract termination to the date the agency pays this system. If the agency fails to pay to the board the amount of the difference, all benefits under the contract, payable after the board declares the agency in default therefor, shall be reduced by the percentage that the sum is less than the amount in clause (1) of subdivision (a) of Section 20576 as of the date the board declared the default. If the sum of the accumulated contributions is greater than the amount in clause (1) of subdivision (a) of Section 20576, an

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amount equal to the excess shall be paid by this system to the contracting agency, including interest at the actuarial rate from the date of contract termination to the date this system makes payment. The market value used shall be the value calculated in the most recent annual closing.

The right of an employee of a contracting agency, or his or her beneficiary, to a benefit under this system, whether before or after retirement or death, is subject to the reduction.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 614; and by Stats. 1983, Ch. 385; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 462.)

§ 20577.5. Terminated Plans—Benefit Reductions

Notwithstanding Section 20577, the board may merge a plan that has been terminated pursuant to Section 20572 into the terminated agency pool without benefit reduction, or with a lesser reduction, if (a) the board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan, and (b) the board finds that the merger of the plan into the terminated agency pool without benefit reduction will not impact the actuarial soundness of the terminated agency pool.

(Added by Stats. 2003, Ch. 462.)

§ 20578. Rights and Benefits of Former Employee of Terminated Agency

(a) Except as provided in subdivision (b), on and after January 1, 1991, the rights and benefits of a former employee of a contracting agency which terminated on or before January 1, 1991, or of his or her beneficiary, shall be the same as if the agency had continued as a contracting agency. Any monthly allowance of that individual, or of his or her beneficiary, that was reduced pursuant to Section 20577 because the contracting agency failed to pay the board the amount of the difference shall not be subject to continued reduction on or after January 1, 1991. As of January 1, 1991, benefits shall be paid at the level provided in the contract prior to that reduction. However, if a former employee of a contracting agency that terminated on or before January 1, 1991, becomes employed by another covered employer after the date of termination, including an employer subject to reciprocity, the benefits shall be calculated by using the highest compensation earned by the individual.

In accordance with Section 20580, an individual who has withdrawn his or her accumulated contributions from the terminated agency shall not be permitted to redeposit any withdrawn contributions upon again becoming a member of this system.

Except as provided in Section 20577.5, benefits shall be reduced proportionally pursuant to Section 20577 prior to the transfer of assets to the pool if the amount of the terminating agency's assets are less than the actuarial equivalent described

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in clause (1) of subdivision (a) of Section 20576 and if the agency fails to pay the difference.

(b) If a contracting agency has not paid the system for any deficit in funding for earned benefits, as determined pursuant to Section 20577, members shall be entitled to the benefits to which members of the plan were entitled 36 months prior to the date the agency notified the board of its intention to terminate its contract or 36 months prior to the date the board notified the agency of its intent to terminate the contract, whichever is earlier. Entitlement to earned benefits under this subdivision shall be subject to Section 20577.5.

(Added by Stats. 1990, Ch. 821; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 678; and by Stats. 2003, Ch. 462.)

§ 20579. Contracting Agency Ceases to be Employer

For purposes of Sections 20576 and 20577 in the case of a contracting agency that is an employer for purposes of Chapter 9 (commencing with Section 20790), the contracting agency shall cease to be an employer on the day preceding the effective date of termination, and all accumulated contributions held by this system and made by or credited to the contracting agency shall be determined in accordance with Section 20834.

(Added by Stats. 1967, Ch. 1631; repealed by Stats. 1973, Ch. 389; added by Stats. 1973, Ch. 389; amended by Stats. 1979, Ch. 120, effective 6/15/79; renumbered by Stats. 1995, Ch. 379.)

§ 20580. Continuation of Membership Upon Contract Termination; Conditions for Withdrawal of Contributions

Upon the termination of a contract, all memberships in this system existing because of that contract continue in existence to the extent that there are accumulated contributions to the credit of each local member, but any member may elect to withdraw his or her accumulated contributions if the member is not employed in a position subject to coverage by the system at the time of election. The status of any member who does not withdraw his or her accumulated contributions shall be the same as if the public agency had continued as a contracting agency. The membership of any member who is eligible and who elects to withdraw his or her accumulated contributions shall be terminated forthwith, and he or she shall not be entitled to any further benefit based upon service credited as an employee of the contracting agency, nor shall he or she have the right to redeposit those withdrawn contributions upon again becoming a member of this system. The portion of the contributions of the contracting agency held under Section 20576 to the credit of each member shall be determined by the board, and may be adjusted from time to time prior to termination of membership. A member whose membership continues under this section is subject to the same age and incapacity requirements as apply to other members for service or for disability retirement, but he or she is not subject to a minimum service requirement.

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Except as provided in Section 20578, he or she shall receive the retirement benefits as his or her accumulated contributions, together with the portion of the excess of the contributions of the contracting agency as are credited to him or her, shall provide, as determined by the board, but the provisions of this part relative to minimum retirement allowances shall not apply to him or her, nor shall those benefits exceed the benefits provided by the contract prior to its termination. Upon the death of a member, the basic death benefit shall be his or her accumulated contributions.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1366; by Stats. 1951, Ch. 614; by Stats. 1955, Ch. 1141, operative 10/1/55; and by Stats. 1990, Ch. 821; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 20581. Contract After Termination

If a public agency that terminated its contract enters into a contract for participation in this system, the contract may provide for increase in benefits of persons retired or members who retained rights under this system, if the benefits were reduced under this article at the time of termination, to the level provided in the contract for members, and for redeposit of any contributions for service to the agency not credited under a local system maintained by the agency after termination, withdrawn at termination by a person who becomes a member on contract date. Unless the redeposit is made, the member shall not receive credit for the service. All service rendered prior to the contract date and credited as a result of the contract shall constitute prior service whether or not rendered during the period of the terminated contract. All liabilities for service performed under the terminated contract shall become liabilities of a plan under the new contract. The ratio of assets to liabilities that existed at the time the previous contract was terminated shall be used to calculate the amount of assets to be transferred to a plan under the new contract.

(Added by Stats. 1974, Ch. 614; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 462.)

§ 20582. Effect of Termination on Events

Any event occurring on or after the date on which termination of a contract becomes effective shall not be considered in determining the right of any member to retire for service or disability or the rights of his or her beneficiaries.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20583. Right to Retirement Allowance

The right to a retirement allowance, of a person who had retired prior to the effective date of the termination of a contract, or who has qualified and applied for retirement by written document received at the board's office in Sacramento, prior to the effective date, even though the board does not approve the application until

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a later date, and the right of any person to a benefit on account of a death that occurred prior to the effective date, is not affected by termination of the contract, unless the contracting agency fails to make the contributions required of it because of the participation of its employees in this system.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20584. Payment Postponed

The board may postpone the payment of any amount due a contracting agency on termination of a contract if payment would require the sale of securities, that, in the opinion of the board, would affect adversely the interests of this system.

If the board delays a payment longer than the period reasonably necessary for the determination of the amount due and for the necessary action by the board, interest shall be allowed on the amount remaining due and unpaid from time to time at the rate then in use under this system, and paid to the contracting agency at the same time and in the manner as the original amount due.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20585. Agreement for Inclusion in County System

(a) Notwithstanding any other provision of this article, the board may enter into an agreement with the governing body of a contracting agency whose contract has been in effect for at least five years and the board of supervisors of a county maintaining a county retirement system for termination of the contracting agency's participation in this system and inclusion of its employees in the county retirement system.

(b) The agreement shall contain provisions the board finds necessary to protect the interests of this system, including provisions for determination of the amount, time, and manner of transfer of cash or securities, or both, to be transferred to the county system representing the value of the interests in the retirement fund of the contracting agency and its employees by reason of accumulated contributions credited to the agency and its employees. However, the amount transferred may not exceed the amount of the accumulated contributions. Any amount representing the difference between the value of the interests in the retirement fund of the contracting agency and its employees, and the accumulated contributions credited to the agency and its employees, shall be credited to the reserve under Section 20174. The agreement may also contain any other provisions that the board deems necessary to address issues related to the transfer, including, but not limited to, benefits subject to an outstanding domestic relations order and benefits subject to a lien.

(c) All liability of this system with respect to members and retired persons under the contract shall cease and shall become the liability of the county system as of the date of termination specified in the agreement. Liability of the county retirement system shall be for payment of benefits in accordance with Chapter 3

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(commencing with Section 31450) of Part 3 of Division 4 of Title 3 applicable to it except that allowances of persons retired on the termination date and their beneficiaries and of beneficiaries of deceased members or retired persons who are receiving allowances on that date, shall be continued in at least the amount provided under the agency's contract as it was on that date. The termination may not affect the contribution rate of any member in any other employment under this system on the date of termination or any retirement allowance or other benefit based on service to another employer being paid on the termination date.

(d) Any member who becomes a member of a county retirement system upon the contract termination shall be subject to this part and Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the county retirement system during his or her membership in this system under the terminated contract.

(e) Upon execution of the agreement, a contracting agency that is an employer under Chapter 9 (commencing with Section 20790) shall cease to have that status, and the accumulated contributions of the contracting agency shall be determined and thereafter held as provided in Section 20834.

(Added by Stats. 1970, Ch. 676; amended by Stats. 1979, Ch. 120, effective 6/15/79; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2003, Ch. 519.)

§ 20586. Transfer to District Participating in County System

The board may enter into an agreement in accordance with Section 20585 for termination of a contract that has been in effect for at least five years with respect to local firefighters if the firefighting function of the contracting agency and local firefighters have been transferred to a district which participates in a county retirement system. The contract shall continue with respect to all employees of the contracting agency other than local firefighters.

(Added by Stats. 1974, Ch. 1343, effective 9/26/74; amended by Stats. 1979, Ch. 120, effective 6/15/79; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20587. Transfer to District or County Service Area Participating in County System

The board may enter into an agreement in accordance with Section 20585 for termination of a contract that has been in effect for at least five years with respect to local members if particular functions of the contracting agency and local members have been transferred to a district or a county service area that participates in a county retirement system. The contract shall continue with respect to all other employees of the contracting agency.

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(Added by Stats. 1984, Ch. 1403; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20588. Transfer of Function from the State or Public Agency to County or District—Inclusion in County System

(a) Notwithstanding any other provision of this article, the board may, pursuant to this section and Section 31657, enter into an agreement with the board of retirement of a county maintaining a county retirement system, for termination of participation of a public agency whose contract has been in effect for at least five years in this system or the state with respect to certain safety members who have ceased to be employed by the public agency or the state and have been employed by a county, fire authority, or district as a result of a transfer of firefighting or law enforcement functions from the public agency or the state to the county, fire authority, or district and inclusion of the former public agency employees in that county retirement system.

(b) The agreement shall contain provisions the board finds necessary to protect the interests of this system, including provisions for determination of the amount, time, and manner of transfer of cash or securities, or both, to be transferred to the county system representing the actuarial value of the interests in the retirement fund of the public agency or the state and the transferred employees by reason of accumulated contributions credited to that public agency or the state and the employees transferred. The agreement may also contain any other provisions that the board deems necessary to address issues related to the transfer, including, but not limited to, benefits subject to an outstanding domestic relations order and benefits subject to a lien. The agreement shall apply only to employees who are employed by the county or district on the effective date of the agreement.

(c) All liability of this system with respect to the members transferred under that agreement shall cease and shall become the liability of the county retirement system as of the date of transfer specified in the agreement. Liability of the county retirement system shall be for payment of benefits to transferred employees in accordance with Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3.

(d) Any member transferred who becomes a member of a county retirement system upon that transfer date shall be subject to provisions of this part and of Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the county retirement system during his or her membership in this system.

(e) This section shall apply only in Kern, Los Angeles, and Orange Counties.

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(Added by Stats. 1990, Ch. 419, effective 7/26/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1997, Ch. 832; by Stats. 2000, Ch. 966; by Stats. 2001, Ch. 793; and by Stats. 2003, Ch. 519.)

§ 20589. Transfer of Assets and Liabilities—San Francisco City and County Employees' Retirement System

(a) Notwithstanding any other provision of this article, the board may enter into an agreement with the board of retirement of the San Francisco City and County Employees' Retirement System, for termination of participation of a public agency whose contract has been in effect for at least five years in this system or the state with respect to certain safety members who have ceased to be employed by the public agency or the state and have been employed by the city and county, fire authority, or district as a result of a transfer of firefighting or law enforcement functions from the public agency or the state to the city and county, fire authority, or district and inclusion of the former public agency employees in that retirement system.

(b) The agreement shall contain provisions the board finds necessary to protect the interests of this system, including provisions for determination of the amount, time, and manner of transfer of cash or securities, or both, to be transferred to the city and county system representing the actuarial value of the interests in the retirement fund of the public agency or the state and the transferred employees by reason of accumulated contributions credited to that public agency or the state and the employees transferred. The agreement may also contain any other provisions that the board deems necessary to address issues related to the transfer, including, but not limited to, benefits subject to an outstanding domestic relations order and benefits subject to a lien. The agreement shall apply only to employees who are employed by the city and county or district on the effective date of the agreement.

(c) All liability of this system with respect to the members transferred under that agreement shall cease and shall become the liability of the San Francisco City and County Employees' Retirement System as of the date of transfer specified in the agreement. Liability of the city and county retirement system shall be for payment of benefits to transferred employees.

(d) Any member transferred who becomes a member of the city and county retirement system upon that transfer date shall be subject to provisions of this part and the provisions of the San Francisco City Charter and Administrative Code extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the city and county retirement system during his or her membership in this system.

(e) This section shall apply only in the City and County of San Francisco.

(Added by Stats. 2004, Ch. 268.)

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§ 20590. Agreement for Inclusion in City Retirement System

(a) Notwithstanding any other provision of this article, the board may enter into an agreement with the governing body of a contracting agency, other than a housing authority, and the governing body of a city with a population in excess of 2,000,000 and maintaining its own retirement system, for termination of the contracting agency's participation in this system and inclusion of the employees in the city retirement system.

(b) The agreement shall contain provisions the board finds necessary to protect the interests of this system, including provisions for determination of the amount, time, and manner of transfer of cash or securities, or both, to be transferred to the city system representing the value of the interests in the retirement fund of the contracting agency and its employees by reason of contributions and interest credited to the agency and its employees. The agreement may also contain any other provisions that the board deems necessary to address issues related to the transfer, including, but not limited to, benefits subject to an outstanding domestic relations order and benefits subject to a lien.

(c) All liability of this system with respect to members and retired persons under the contract shall cease and shall become the liability of the city system as of the date of termination specified in the agreement. Liability of the city system shall be for payment of benefits to persons retired on the termination date and their beneficiaries and of beneficiaries of deceased members in at least the amount provided under the agency's contract as it was on that date. The termination may not affect the contribution rate of any member in any other employment under this system on the date of termination or any retirement allowance or other benefit based on service.

(d) Any member who becomes a member of a city system upon the contract termination shall be subject to those provisions of this part extending rights to a member or subjecting the member to limitations because of membership in another retirement system to the same extent that the member would have been had he or she been a member of the city system during his or her membership in this system under the terminated contract.

(Added by Stats. 1976, Ch. 1233; amended by Stats. 1983, Ch. 142; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 519.)

§ 20591. Agreement for Inclusion in City Retirement System—Firefighters

Notwithstanding any other provision of this article, the board may enter into an agreement in accordance with Section 20590 with the governing body of a contracting agency, and the governing body of a city maintaining its own retirement system for termination of the contracting agency's participation in this system with respect to local firefighters and inclusion of those local firefighters in that city retirement system if the firefighting function of the contracting agency and the local firefighters have been transferred to that city. The contract shall

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continue with respect to all employees of the contracting agency other than local firefighters.

(Added by Stats. 1990, Ch. 1383; renumbered by Stats. 1995, Ch. 379.)

§ 20592. Transfer of Assets and Liabilities of Employer

Notwithstanding any other provision of law, when all or part of an employer's function is transferred to an entity that is not an employer, the board may, by contract between the board, the employer, and the succeeding entity, transfer all or part of the assets and liabilities accumulated in this system by the employer to the succeeding entity.

Members employed by that employer shall have an individual election whether all accumulated contributions shall be transferred to the succeeding entity or left on deposit with this system.

The accumulated contributions may be directly transferred to the succeeding entity by the board for those members who so request.

(Added by Stats. 1981, Ch. 737; amended by Stats. 1985, Ch. 176, effective 7/8/85; renumbered by Stats. 1995, Ch. 379.)

§ 20593. Assumption of Management of Health District—Continuation of Contract

Notwithstanding any other provision of law, when the management of a health district is assumed by the governing body of San Joaquin County, the contract shall be construed as a continuation of the district's contract for all purposes of this part. Section 20834 shall not apply upon the execution of an agreement with the board and the governing body of the county for the assumption.

(Added by Stats. 1986, Ch. 981; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

Chapter 6. School Employers

SECTION
§ 20610. Contract for All School Employees
§ 20611. Regional Occupational Center
§ 20612. Amendment to Include Employees of District
§ 20613. Continuation and Amendment
§ 20615. Applicability of Provisions
§ 20616. Application of Specified Sections
§ 20617. Requisition of Funds
§ 20618. Merger of Assets and Liabilities—Employer Accumulated Contributions to Be Held for Benefit of School Members

§ 20610. Contract for All School Employees

(a) Every county superintendent of schools shall enter into a contract with the board for the inclusion in this system of (1) all of the employees of the office of county superintendent whose compensation is paid from the county school service fund other than employees electing pursuant to Section 1313 of the Education Code to continue in membership in a county system; and (2) all of the employees of school districts and community college districts existing on July 1, 1949, or thereafter formed, within his or her jurisdiction, other than school districts that are contracting agencies or that maintain a district, joint district, or other local retirement system, with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement Plan. The effective date of each contract shall not be later than July 1, 1949. For the purposes of this part, those school district employees shall be considered employees of the county superintendent of schools having jurisdiction over the school district by which they are employed and service to the district shall be considered service to the county superintendent of schools.

(b) If a charter school chooses to participate in the system, all employees of the charter school who qualify for membership in the system shall be covered under the system and all provisions of this part shall apply in the same manner as if the charter school were a public school in the school district that granted the charter.

(Added by Stats. 1947, Ch. 1496; amended by Stats. 1949, Ch. 298; by Stats. 1965, Ch. 717; by Stats. 1965, Ch. 1183; and by Stats. 1980, Ch. 481; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 62 and Ch. 519; by Stats. 2004, Ch. 231; and by Stats. 2005, Ch. 22.)

§ 20611. Regional Occupational Center

A regional occupational center established pursuant to Chapter 9 (commencing with Section 52300) of Division 4 of the Education Code by two or more school districts by a joint powers agreement shall be deemed a school district for purposes of this part. The board and the county superintendent of schools, upon the request of the governing body of any center in the county, shall amend the contract entered into under this chapter to include the employees of the center who are not eligible to membership in the State Teachers' Retirement Plan. Credit shall not be granted for any service in that employment prior to the effective date of the

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amendment. However, on the request of the governing body of the center, the amendment may provide that the membership of any person becoming a member in that employment on the effective date of the amendment shall be retroactive to the date of that person's entry into that employment. If the amendment provides for the retroactive membership, both the member and the center shall contribute to the retirement fund for the period the amounts they would have contributed had the amendment been in effect on the date of the entry into employment.

(Added by Stats. 1968, Ch. 5; amended by Stats. 1984, Ch. 193; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 62 and Ch. 519.)

Note: Stats. 1968, Ch. 5, also contains the following provision:

SECTION 1. For the purpose of implementing the program set forth in Chapter 14 (commencing with Section 7450) of Division 6 of the Education Code, as amended at the 1967 Regular Session of the Legislature, whereby two or more districts through a joint powers agreement may establish a regional occupational center, the entity thereby created is not presently considered to be a school district wherein the classified employees of the entity and regional occupational center may participate in the Public Employees' Retirement System under the county contract within each county of employment. The Legislature declares that employees of a regional occupational center, established under the provisions as cited above, shall be eligible for participation in the Public Employees' Retirement System. The Legislature further declares that it is in the best interest of the people of the State of California to include in the Public Employees' Retirement System employees of regional occupational centers.

§ 20612. Amendment to Include Employees of District

The board and the county superintendent of schools, upon the request of any school district in the county that is a contracting agency, shall amend the contract entered into under this chapter to include the employees of the district. The request for the amendment shall be made in the manner provided for approval of contracts except that an election among employees shall not be required. Any amendments under this section shall be effective on the first day of the fiscal year next succeeding that in which the contract is executed.

(Added by Stats. 1957, Ch. 1063, effective 6/12/57; repealed and added by Stats. 1995, Ch. 379.)

§ 20613. Continuation and Amendment

An amendment executed under Section 20612 shall be deemed a continuation and an amendment, to the extent of any variation in the two contracts, of the district's contract with respect to rights of all employees of the district under this system. Accumulated contributions held for or as having been made by the district and its employees and the assets derived from those contributions shall be transferred to the credit of the county superintendent of schools as a contracting agency. The liability of the district after the effective date of the amendment shall be

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as provided in former Section 20584, as amended by Chapter 857 of the Statutes of 1965.

(Added by Stats. 1957, Ch. 1063, effective 6/12/57; repealed and added by Stats. 1995, Ch. 379.)

§ 20615. Applicability of Provisions

Except as otherwise provided in this chapter, all of the provisions of Chapter 5 (commencing with Section 20460) apply to contracts made pursuant to this chapter.

(Added by Stats. 1947, Ch. 1496; amended by Stats. 1984, Ch. 144; repealed and added by Stats. 1995, Ch. 379.)

§ 20616. Application of Specified Sections

Sections 20469, 20470, 20502, 20512, 20570, 20571, and 20572 do not apply to contracts made pursuant to this chapter. The county superintendent of schools shall have no authority to exercise any election under any provision of this part, other than Section 21623.6, that applies to a contracting agency only on its election to be subject to it.

(Added by Stats. 1947, Ch. 1496; amended by Stats. 1963, Ch. 2098; and by Stats. 1980, Ch. 481; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 296; and by Stats. 2000, Ch. 947.)

§ 20617. Requisition of Funds

The county superintendent of schools at the close of each month shall draw requisitions against the county school service fund and the funds of the respective school districts for amounts equal to the total of the employers' contributions required to be paid from the county school service fund and from the funds of the districts, and the contributions deducted from the compensation of employees paid from those funds. The amounts shall be deposited in the county treasury to the credit of the contract retirement fund. The employers of persons paid from other funds, at the close of each month, shall pay into the contract retirement fund the amounts required to be paid by those employers together with the contributions deducted from the compensation of those employees.

Thereafter the county superintendent of schools shall draw his or her requisitions against the contract retirement fund and in favor of the board which, when allowed by the county auditor, shall constitute warrants against the fund for the amount of the employees' contributions transferred to or otherwise paid into the fund during that month and for the amount of employers' contributions transferred to or otherwise paid into the fund. The county superintendent of schools shall forward the warrants to the board.

(Added by Stats. 1949, Ch. 1200; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

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§ 20618. Merger of Assets and Liabilities—Employer Accumulated Contributions to Be Held for Benefit of School Members

(a) The assets and liabilities arising out of contracts with school employers, as defined in Section 20063, shall be merged, excluding that portion of a contract that provides benefits pursuant to Section 21623.6, that portion of a contract with respect to local police officers, as defined in Section 20430, and those contracts with school districts or community college districts, as defined in subdivision (i) of Section 20057, that employ school safety members, as defined in Section 20444. Employer accumulated contributions credited to those entities on June 30, 1982, and all the contributions paid by a school employer after June 30, 1982, shall be held exclusively for the benefit of school members, retired school members, and their beneficiaries.

(b) Effective December 31, 1999, any service previously credited as local miscellaneous service with the Los Angeles Unified School District or the Los Angeles Community College District shall be considered service credit with a school employer. A person who is a member under a contract between the board and school districts or community college districts prior to July 1, 1983, shall not be denied any right extended to him or her by reason of that membership.

(Added by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; amended by Stats. 1990, Ch. 658, effective 9/9/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 296; by Stats. 2000, Ch. 947; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

Chapter 7. Compensation

SECTION
§ 20630. "Compensation"
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§ 20630. "Compensation"

(a) As used in this part, "compensation" means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of any of the following:

(1) Holidays.

(2) Sick leave.

(3) Industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor Code, Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6, or Section 44043 or 87042 of the Education Code.

(4) Vacation.

(5) Compensatory time off.

(6) Leave of absence.

(b) When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid. Compensation shall be reported in accordance with Section 20636 and shall not exceed compensation earnable, as defined in Section 20636.

(Added by Stats. 1993, Ch. 1297, operative 7/1/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 121.)

§ 20631. Computing and Reporting Compensation

A contracting agency may report an amount for each member that is equal to a uniformly applied percentage of salary in lieu of computing and reporting the actual compensation attributable to each individual member if the contracting agency has agreed in a memorandum of understanding reached pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 that the aggregate amount to be reported by the contracting agency for all members within

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a membership classification bears a reasonable relation to the aggregate amount that would otherwise be required to be reported pursuant to Section 20636.

(Added by Stats. 1989, Ch. 1464, effective 10/2/89; amended by Stats. 1994, Ch. 408; repealed and added by Stats. 1995, Ch. 379.)

§ 20632. Uniform Compensation Excluded—State Employees

For state employees in classifications designated by the Director of Human Resources who are also excluded from, or otherwise not subject to, collective bargaining, and for employees in bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, compensation for uniforms shall not constitute "compensation" for the purposes of the computation of retirement contributions by employees and the state or for the purposes of the calculation of retirement benefits.

(Added by Stats. 1984, Ch. 676, effective 8/18/84; amended by Stats. 1985, Ch. 921, effective 9/24/85; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2012, Ch. 665.)

§ 20633. Salary Withheld by School Employer Included

Notwithstanding any other provision of this part, compensation includes salary withheld by the employer in accordance with Section 45165 or 88164 of the Education Code, which provide for continuation of salary payments during a period in which the member renders no service. The withheld salary shall be reported as earned.

(Added by Stats. 1977, Ch. 812; amended by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379.)

§ 20634. Health Sciences Compensation Plan Payments Excluded—University Member

For a university member appointed under a health sciences compensation plan of the university, "compensation" shall not include past or future supplemental payments made pursuant to any health sciences compensation plan.

(Added by Stats. 1987, Ch. 1164; renumbered by Stats. 1995, Ch. 379.)

§ 20635. Overtime Compensation Excluded

When the compensation of a member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime put in by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of

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employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.

If a member concurrently renders service in two or more positions, one or more of which is full time, service in the part-time position shall constitute overtime. If two or more positions are permanent and full time, the position with the highest payrate or base pay shall be reported to this system. This provision shall apply only to service rendered on or after July 1, 1994.

(Added by Stats. 1947, Ch. 1140; amended by Stats. 1951, Ch. 612; by Stats. 1973, Ch. 270; by Stats. 1977, Ch. 192, effective 6/30/77, operative 1/1/78; and by Stats. 1993, Ch. 1297, operative 7/1/94; renumbered by Stats. 1995, Ch. 379.)

§ 20635.1. Overtime Compensation Excluded—School Member

Notwithstanding Section 20635, and Section 45102 of the Education Code, when the compensation of a school member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime put in by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime for school members is the aggregate service performed by an employee as a member for all school employers and in all categories of employment in excess of 40 hours of work per week, and for which monetary compensation is paid.

If a school member concurrently renders service in two or more positions, one or more of which is full time, service in the part-time position shall constitute overtime. If two or more positions are permanent and full time, the position with the highest payrate or base pay shall be reported to this system.

(Added by Stats. 2000, Ch. 1030.)

§ 20636. "Compensation Earnable"

(a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(A) Participation in a deferred compensation plan.

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(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(C) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(D) Participation in a flexible benefits program.

(3) The computation for a leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(4) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, if the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of a service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, is not special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and 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 shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

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

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment"" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. One employee may not be considered a group or class.

(2) Increases in compensation earnable granted to an employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with, or in anticipation of, a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) (1) Notwithstanding subdivision (a), "compensation earnable" for state members means the average monthly compensation, as determined by the board, upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, and is composed of the payrate and special compensation of the member. The computation for an absence of a member shall be based on the compensation earnable by him or her at the beginning of the absence and for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in that state service.

(2) Notwithstanding subdivision (b), "payrate" for state members means the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, in payment for the member's services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. "Payrate" for state members shall include:

(A) An amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6.

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(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) A payment in cash by the member's employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan that meets the requirements of Section 403(b) of Title 26 of the United States Code.

(C) Employer "pick up" of member contributions that meets the requirements of Section 414(h)(2) of Title 26 of the United States Code.

(D) Disability or workers' compensation payments to safety members in accordance with Section 4800 of the Labor Code.

(E) Temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

(F) Other payments the board may determine to be within "payrate."

(3) Notwithstanding subdivision (c), "special compensation" for state members shall mean all of the following:

(A) The monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry, and other advantages of any nature furnished to a member by his or her employer in payment for the member's services.

(B) Compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, Peace Officer Standards and Training (POST) certificate pay, and split shift differential.

(C) Compensation for uniforms, except as provided in Section 20632.

(D) Other payments the board may determine to be within "special compensation."

(4) "Payrate" and "special compensation" for state members do not include any of the following:

(A) The provision by the state employer of a medical or hospital service or care plan or insurance plan for its employees (other than the purchase of annuity contracts as described below in this subdivision), a contribution by the employer to meet the premium or charge for that plan, or a payment into a private fund to provide health and welfare benefits for employees.

(B) A payment by the state employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act.

(C) Amounts not available for payment of salaries and that are applied by the employer for the purchase of annuity contracts including those that meet the requirements of Section 403(b) of Title 26 of the United States Code.

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(D) Benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6.

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans. The amounts deducted from a member's wages for participation in a deferred compensation plan may not be considered to be "employer payments."

(F) Payments for unused vacation, annual leave, personal leave, sick leave, or compensating time off, whether paid in lump sum or otherwise.

(G) Final settlement pay.

(H) Payments for overtime, including pay in lieu of vacation or holiday.

(I) Compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobiles, and bonuses for duties performed after the member's regular work shift.

(J) Amounts not available for payment of salaries and that are applied by the employer for any of the following:

(i) The purchase of a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(ii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(K) Payments made by the employer to or on behalf of its employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed the employee's salary.

(L) Other payments the board may determine are not "payrate" or "special compensation."

(5) If the provisions of this subdivision, including the board's determinations pursuant to subparagraph (F) of paragraph (2) and subparagraph (D) of paragraph (3), are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 3560, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, those provisions may not become effective unless approved by the Legislature in the annual Budget Act. No memorandum of understanding reached pursuant to Section 3517.5 or 3560 may exclude from the definition of either "payrate" or "special compensation" a member's base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. If items of compensation earnable are included by memorandum of understanding as "payrate" or "special compensation" for retirement purposes for represented and higher education employees pursuant to this paragraph, the Department of Human Resources or the Trustees of the California State University shall obtain approval from the board for that inclusion.

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(6) (A) Subparagraph (B) of paragraph (3) prescribes that compensation earnable includes compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential; and includes compensation for uniforms, except as provided in Section 20632; and subparagraph (I) of paragraph (4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A), the Department of Human Resources shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for an employee who either is excluded from the definition of state employee in Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(C) Notwithstanding subparagraph (A), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees shall be considered compensation for retirement purposes for a managerial employee, as defined in Section 3562, or supervisory employee as defined in Section 3580.3.

(h) This section shall not apply to a new member, as defined in Section 7522.04.

(Added by Stats. 1993, Ch. 1297, operative 7/1/94; amended by Stats. 1995, Ch. 830; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1998, Ch. 678; by Stats. 1999, Ch. 971; by Stats. 2002, Ch. 1139; by Stats. 2006, Ch. 118; by Stats. 2007, Ch. 130; by Stats. 2012, Ch. 665; and by Stats. 2013, Ch. 526.)

§ 20636.1. "Compensation Earnable"—School Member

(a) Notwithstanding Section 20636, and Section 45102 of the Education Code, "compensation earnable" by a school member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. For purposes of this part, for classified members, full-time employment is 40 hours per week, and payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and

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pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(A) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) or 403(b) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) For the purposes of this section, "classified members" shall mean members who retain membership under this system while employed with a school employer in positions not subject to coverage under the Defined Benefit Program under the State Teachers' Retirement System.

(C) For the purposes of this section, and Sections 20962 and 20966, "certificated members" shall mean members who retain membership under this system while employed in positions subject to coverage under the Defined Benefit Program under the State Teachers' Retirement System.

(2) The computation for any leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(3) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a school member includes any payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, provided that the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

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(5) The monetary value of any service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, shall not be special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and 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 shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

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

(C) Any other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. Under no circumstances shall one employee be considered a group or class.

(2) Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means any pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with or in anticipation of a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) This section shall not apply to a new member, as defined in Section 7522.04.

(Added by Stats. 2000, Ch. 1030; amended by Stats. 2009, Ch. 130; by Stats. 2011, Ch. 440; and by Stats. 2013, Ch. 526.)

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§ 20637. Final Compensation—Partial Disability Retirement—State Member

"Compensation earnable," with respect to a state member receiving supplemental payments pursuant to Section 21160 at the time of retirement or death, means the highest average monthly compensation paid to the employee in the classification in which the member was employed at time of becoming eligible for benefits pursuant to Section 21160, or the average compensation earnable by the member at time of retirement or death, whichever is higher.

(Added by Stats. 1992, Ch. 103, effective 6/30/92; renumbered by Stats. 1995, Ch. 379.)

§ 20638. Final Compensation—Concurrent Retirement with County Retirement System

The average monthly salary during any period of service as a member of a county retirement system shall be considered compensation earnable by a member of this system for purposes of computing final compensation for the member provided:

(a) (1) Entry into employment in which he or she became a member in one system occurred on or after October 1, 1957, and within 90 days of discontinuance of employment as a member of the other system.

(2) This subdivision shall not deny the benefit of this section to any person retiring after October 1, 1963, who entered membership prior to October 1, 1957, if he or she entered the employment in which he or she became a member within 90 days of termination of employment in which he or she was a member of the other system, and he or she became a member within seven months of entry into employment, or, if an employee of a district as defined in Section 31468, became a member at the time the district was included in a county retirement system.

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

(Added by Stats. 1957, Ch. 2399; amended by Stats. 1959, Ch. 776; by Stats. 1963, Ch. 1752; and by Stats. 1980, Ch. 1102; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20639. Final Compensation—Concurrent Retirement with Judges', Legislators', or Teachers' Retirement Systems

The compensation earnable during any period of service as a member of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, or the Defined Benefit Program of the State Teachers' Retirement Plan shall be considered compensation earnable as a member of this system for purposes of computing final compensation for the member, if he or she retires concurrently under both systems.

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A member shall be deemed to have retired concurrently under this system and under the Defined Benefit Program of the State Teachers' Retirement Plan, if the member is enrolled as a disabled member under the Defined Benefit Program of the State Teachers' Retirement Plan and for retirement under this system on the same effective date.

(Added by Stats. 1978, Ch. 900; amended by Stats. 1980, Ch. 1168, effective 9/29/80; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 939; and by Stats. 2001, Ch. 433.)

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Chapter 8. Member Contributions

Article 1

Normal Contributions

SECTION

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ARTICLE 1. NORMAL CONTRIBUTIONS

§ 20671. Gender-Specific Contribution Rates or Benefit Factors Prohibited

Notwithstanding any other provision of this part, separate rates of contributions for male and female members shall not be established or maintained, nor shall different benefit factors be established for male and female members in the same category. However, this section shall not apply to the computation of the actuarial equivalents required under this part for the determination of optional payments.

(Added by Stats. 1976, Ch. 1436; amended by Stats. 1977, Ch. 368, effective 8/24/77; renumbered by Stats. 1995, Ch. 379.)

§ 20672. Age of Entry—Same as County Retirement System

For purposes of this chapter, the age of entry into this system as a member in any membership category for a person who enters on or after October 1, 1957, and within 90 days after last rendering service as a member of a county retirement

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system and who retains his or her membership in that system shall be his or her age at entry into the county retirement system.

(Added by Stats. 1957, Ch. 2399; amended by Stats. 1959, Ch. 776, operative 10/1/59; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20672.5 Temporary Member Contribution—Limitation

Whenever a member's contribution rate is temporarily reduced by statute, a memorandum of understanding, or the Director of Human Resources, those reductions shall be limited to the payment of member contributions during the reduction period and do not apply to the purchase of service credit or the redeposit of member contributions. The purchase of service credit and the redeposit of member contributions shall be subject to the normal rate of contribution for the member in effect immediately prior to the temporary rate reduction.

(Added by Stats. 2003, Ch. 519; amended by Stats. 2012, Ch. 665.)

§ 20673. Local Safety Member Contributions—Section 21368

The normal rate of contribution for a local safety member subject to Section 21368 who after December 1, 1968, enters that membership or enters employment more than one year following termination of previous employment in which he or she was a local safety member shall be the rate specified for his or her age, at his or her birthday nearest to the date of that entry, in the rate schedule for the benefit formula applicable to that membership as established by the board in accordance with this chapter as it read on November 30, 1968, and in effect on that date, except that on and after January 1, 1977, female rates shall be adjusted to conform with male rates.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1265; by Stats. 1947, Ch. 1140; and by Stats. 1967, Ch. 1352 and Ch. 1631; repealed and added by Stats. 1968, Ch. 941; amended by Stats. 1971, Ch. 170, operative 7/1/71; and by Stats. 1977, Ch. 368, effective 8/24/77; renumbered by Stats. 1995, Ch. 379.)

§ 20674. Patrol or Local Safety Member Contributions—Section 21366

The normal rate of contribution for any member whose retirement allowance is determined under Section 21366, and who after December 1, 1968, enters that membership or enters employment more than one year after termination of employment in which he or she was subject to Section 21366, shall be the rate, specified in the schedule established by the board in accordance with this chapter as it read on November 30, 1968, and in effect on that date for that formula and benefit percentage, for the age at his or her birthday nearest to the date of his or her earliest service subject to any of those sections, whether or not contributions for that service were withdrawn or redeposited, increased by the number of completed years of his

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or her absence from any employment subject to any of such sections, except that on and after January 1, 1977, female rates shall be adjusted to conform with male rates.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1345; by Stats. 1947, Ch. 1526; by Stats. 1951, Ch. 612; repealed and added by Stats. 1968, Ch. 941; amended by Stats. 1969, Ch. 752 and Ch. 753, operative 12/1/69; by Stats. 1977, Ch. 368, effective 8/24/77; and by Stats. 1980, Ch. 481; renumbered by Stats. 1995, Ch. 379.)

§ 20675. State Safety Member Contribution Rate Applicable to Future Service

Whenever a person becomes a state safety member as a result of an amendment to this part defining state safety member, the rate of contributions provided for state safety members shall apply only to compensation paid that person for service on and after the effective date of the amendment.

(Added by Stats. 1970, Ch. 1600; amended by Stats. 1972, Ch. 1098, operative 4/1/73; renumbered by Stats. 1995, Ch. 379.)

§ 20676. State Peace Officer/Firefighter Member Contribution Rate Applicable to Future Service

Whenever a person becomes a state peace officer/firefighter member as a result of an amendment to this part defining state peace officer/firefighter member, the rate of contribution provided for state peace officer/firefighter shall apply only to compensation paid the person for service on and after the effective date of the amendment.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 20677. Member Contributions—CSU, UC, Legislative, and Judicial

(a) (1) The normal rate of contribution for a state miscellaneous member employed by the California State University, the University, or the legislative or judicial branch whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a school member or a local miscellaneous member shall be 7 percent of the compensation paid that member for service rendered on and after June 21, 1971.

(3) Notwithstanding paragraph (2), the normal rate of contribution for a local miscellaneous member subject to Section 21354.3, 21354.4, or 21354.5 shall be 8 percent of the compensation paid that member for service rendered on and after the date the member's contracting agency elects to be subject to that section.

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(4) The normal rate of contribution as established under this subdivision for a local miscellaneous or school member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21353, 21354, 21354.1, 21354.3, 21354.4, or 21354.5 because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs. Notwithstanding the foregoing, effective January 1, 2001, the normal rate of contribution for school members whose service is included in the federal system shall not be reduced pursuant to this paragraph as applied to compensation earned on or after that date.

(b) (1) The normal rate of contribution for a state miscellaneous member employed by the California State University, the University, or the legislative or judicial branch whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or industrial member employed by the California State University, the University, or the legislative or judicial branch, who has elected to be subject to Section 21353.5 and whose service has been included in the federal system, shall be 5 percent of compensation, subject to the reduction specified in paragraph (5) of subdivision (a).

(Added by Stats. 1970, Ch. 767; amended by Stats. 1971, Ch. 170; by Stats. 1974, Ch. 374; by Stats. 1975, Ch. 175, effective 6/30/75, operative 7/1/75; by Stats. 1976, Ch. 341 and Ch. 1115; by Stats. 1984, Ch. 1190, effective 9/17/84; by Stats. 1987, Ch. 1148, effective 9/26/87; by Stats. 1988, Ch. 331, effective 7/14/88; by Stats. 1989, Ch. 1143; and by Stats. 1990, Ch. 549; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1998, Ch. 88, effective 6/30/98 and Ch. 91, effective 7/3/98; by Stats. 1999, Ch. 83 and Ch. 555; by Stats. 2000, Ch. 135 and Ch. 1030; by Stats. 2001, Ch. 782; by Stats. 2002, Ch. 14, effective 3/21/02; and by Stats. 2003, Ch. 62.)

§ 20677.1. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 20677.2. Repealed

(Added by Stats. 2001, Ch. 365, effective 9/27/01, operative 8/31/01; amended by Stats. 2002, Ch. 1, effective 1/16/02, operative 8/31/01; repealed by its own provisions 1/1/04.)

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§ 20677.3. Repealed

(Added by Stats. 2001, Ch. 363, effective 9/27/01, operative 8/31/01; amended by Stats. 2002, Ch. 1, effective 1/16/02, operative 8/31/01; repealed by its own provisions 1/1/04.)

§ 20677.4. Contribution Rate—State Miscellaneous and Industrial

(a) (1) The normal rate of contribution for a state miscellaneous or state industrial member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to that member for service rendered on or after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or state industrial member, who has elected to be subject to Section 21353.5 and whose service is not included in the federal system, shall be 6 percent of the member's compensation.

(3) The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21354.1, because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs.

(b) The normal rate of contribution for a state miscellaneous or state industrial member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered on or after July 1, 1976.

(c) The normal rate of contribution for a state miscellaneous or state industrial member who is subject to Section 21076, 21076.5, or 21077 shall be determined in the manner described in Section 20683.2.

(d) A member who elected to become subject to Section 21353 solely for service rendered on or after the effective date of the election, as authorized by subdivision (c) of Section 21070 during the period between November 1, 1988, and October 31, 1989, is not required to make the contributions specified in Section 21073.

(e) A member who elects to become subject to Section 21354.1, as applicable, shall contribute at the rate specified in paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b), as determined by the member's status with the federal system, and the rate shall be applied from the first of the month following the date of the election. A member who makes the election shall also contribute for service prior to the date the contribution rate was applied, in the manner specified in Section 21073 or 21073.1, as applicable.

(f) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the

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memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless and until approved by the Legislature in the annual Budget Act.

(g) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

(Added by Stats. 2002, Ch. 14, effective 3/21/02; amended by Stats. 2003, Ch. 62; by Stats. 2012, Ch. 665; and by Stats. 2013, Ch. 526.)

§ 20677.5. Contribution Rate—State Miscellaneous and Industrial—Unit 2

(a) Notwithstanding any provisions of Section 20677.4 to the contrary, effective with the beginning of the pay period following the operative date of the amendments to this section made by Senate Bill 151 of the 2011-12 Regular Session, the normal rate of contribution for state miscellaneous or state industrial members who are subject to Section 21353 or 21354.1, and who are represented by State Bargaining Unit 2, shall be:

(1) Ten percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system.

(2) Nine percent of compensation in excess of five hundred thirteen dollars ($513) per month paid to that member whose service has been included in the federal system.

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

(c) The Director of the Department of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of

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Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

(Added by Stats. 2006, Ch. 28, effective 5/18/06; amended by Stats. 2011, ch 25, effective 5/16/11.)

Note: Former Section 20677.5 was added by Stats. 2002, Ch. 40, effective 5/16/02, operative 1/1/02; repealed by its own provision 1/1/04.

§ 20677.6. Repealed

(Added by Stats. 2010, Ch. 163; effective 8/23/10; repealed by Stats. 2011, Ch. 25, effective 5/16/11.)

§ 20677.6. Contribution Rate State Miscellaneous & Industrial—Units 12, 13, 16, 18, 19

(a) Notwithstanding Section 20677.4, effective with the beginning of the pay period following the effective date of this section, the normal rate of contribution for state miscellaneous or state industrial members who are represented by State Bargaining Units 12, 16, 18, and 19, shall be:

(1) Eleven percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system.

(2) Ten percent of compensation in excess of five hundred thirteen dollars ($513) per month paid to that member whose service has been included in the federal system.

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

(c) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Human Resources may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(d) Notwithstanding Section 20677.4, effective with the beginning of the pay period following the operative date of the amendments to this section made by Senate Bill 151 of the 2011-12 Regular Session, this section shall apply to state miscellaneous or state industrial members who are represented by State Bargaining Unit 13.

(Added by Stats. 2010, Ch. 162; effective 8/23/10; amended by Stats. 2011, Ch. 25, effective 5/16/11.)

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Note: Former Section 20677.6 was added by Stats. 2002, Ch. 278, effective 8/26/02, operative 4/1/02; repealed by its own provisions 1/1/04.

§ 20677.7. Repealed

(Added by Stats. 2010, Ch. 163, effective 8/23/2010, operative 9/1/2010; repealed by Stats. 2012, Ch. 249.)

§ 20677.7. Contribution Rate State Miscellaneous & Industrial—Units 5, 8

(a) Notwithstanding Section 20677.4, effective with the beginning of the September 2010 pay period, the normal rate of contribution for state miscellaneous or state industrial members who are represented by State Bargaining Unit 8, shall be:

(1) Eleven percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system.

(2) Ten percent of compensation in excess of five hundred thirteen dollars ($513) per month paid to a member whose service has been included in the federal system.

(b) Notwithstanding Section 20677.4, effective with the beginning of the September 2010 pay period, the normal rate of contribution for state miscellaneous or state industrial members who are represented by State Bargaining Unit 5 shall be:

(1) Eight percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system.

(2) Seven percent of compensation in excess of five hundred thirteen dollars ($513) per month paid to a member whose service has been included in the federal system.

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

(d) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(Added by Stats. 2010, Ch. 162, effective 8/23/2010, operative 9/1/2010; amended by Stats. 2012, Ch. 249; and by Stats. 2013, Ch. 76.)

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§ 20677.71. Contribution Rate State Miscellaneous & Industrial—Units 1, 3, 4, 11, 14, 15, 17 & 20 or 21

(a) Notwithstanding Section 20677.4, effective with the beginning of the pay period following ratification by the affected union membership and enactment of this section, the normal rate of contribution for state miscellaneous or state industrial members who are represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 shall be:

(1) Nine percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system.

(2) Eight percent of compensation in excess of five hundred thirteen dollars ($513) per month paid to that member whose service has been included in the federal system.

(b) Notwithstanding Section 20677.4, effective with the beginning of the pay period following the operative date of the amendments to this section made by Senate Bill 151 of the 2011-12 Regular Session, this section shall apply to state miscellaneous or state industrial members who are represented by State Bargaining Unit 6, 7, 9, or 10.

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

(d) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Human Resources may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(Added by Stats. 2010, Ch. 728, effective 10/19/10, operative 11/2/10; amended by Stats. 2011, Ch. 25, effective 5/16/11.)

§ 20677.8. Contribution Rate State Patrol

(a) Notwithstanding Sections 20681 and 20694, effective with the beginning of the September 2010 pay period, the normal rate of contribution for patrol members shall be 10 percent of the compensation in excess of eight hundred sixty-three dollars ($863) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require

the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(Added by Stats. 2010, Ch. 162, effective 8/23/10, operative 9/1/10.)

Note: Former Section 20677.8 was added by Stats. 2002, Ch. 190, effective 7/17/02, operative 5/1/02; repealed by its own provisions 1/1/04.

§ 20677.9. Repealed

(Added by Stats. 2010, Ch. 163; effective 8/23/10; repealed by Stats. 2011, Ch. 25, effective 5/16/11.)

§ 20677.9. Contribution Rate State Safety—Units 12, 13, 16, 18, 19

(a) Notwithstanding Section 20683, effective with the beginning of the pay period following the effective date of this section, the normal rate of contribution for state safety members who are represented by State Bargaining Units 12, 16, 18, and 19 shall be 11 percent of compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system or in excess of five hundred thirteen dollars ($513) for one whose service is included in the federal system.

(b) Notwithstanding Section 20683, effective with the beginning of the pay period following the operative date of the amendments to this section made by Senate Bill 151 of the 2011-12 Regular Session, this section shall apply to state safety members who are represented by State Bargaining Unit 13.

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

(d) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Human Resources may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

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(Added by Stats. 2010, Ch. 162, effective 8/23/10, operative 9/1/10; amended by Stats. 2011, Ch. 25, effective 5/16/11.)

Note: Former Section 20677.9 was added by Stats. 2002, Ch. 456, effective 9/11/02, operative 7/1/02; repealed by its own provisions 1/1/04.

§ 20677.91. Contribution Rate State Safety—Units 1, 3, 4, 11, 14, 15, 17 & 20 or 21

(a) Notwithstanding Section 20683, effective with the beginning of the pay period following ratification by the affected union membership and enactment of this section, the normal rate of contribution for state safety members who are represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 shall be 9 percent of compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system or in excess of five hundred thirteen dollars ($513) for one whose service is included in the federal system.

(b) Notwithstanding Section 20683, effective with the beginning of the pay period following the operative date of the amendments to this section made by Senate Bill 151 of the 2011-12 Regular Session, this section shall apply to state safety members who are represented by State Bargaining Unit 7, 9, or 10.

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

(d) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Human Resources may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(Added by Stats. 2010, Ch. 728, effective 10/19/10, operative 11/2/10; amended by Stats. 2011, Ch. 25, effective 5/16/11.)

§ 20677.95. Contribution Rate State Peace Officer/Firefighter—Unit 8

(a) Notwithstanding Section 20687, effective with the beginning of the September 2010 pay period, the normal rate of contribution for state peace officer/firefighter members who are represented by State Bargaining Unit 8 shall be 10 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid to those members.

(b) Notwithstanding Section 20687, effective with the beginning of the pay period following the operative date of the amendments to this section made by

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Senate Bill 151 of the 2011-12 Regular Session, the normal rate of contribution for state peace officer/firefighter members who are represented by State Bargaining Unit 6 shall be 11 percent of the compensation in excess of eight hundred sixty-three dollars ($863) per month paid to those members.

(c) Notwithstanding Section 20687, effective with the beginning of the pay period following the operative date of the amendments to this section made by Senate Bill 151 of the 2011-12 Regular Session, the normal rate of contribution for state peace officer/firefighter members who are represented by State Bargaining Unit 7 shall be 10 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid to those members.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(e) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Human Resources may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(Added by Stats. 2010, Ch. 163, effective 8/23/10, operative 9/1/10; amended by Stats. 2011, Ch. 25, effective 5/16/11.)

§ 20677.96. Contribution Rate State Peace Officer/Firefighter—Unit 8—On and after July 1, 2013

(a) Notwithstanding Sections 20677.95 and 20687, beginning July 1, 2013, the normal rate of contribution for employees subject to subdivision (a) of Section 20677.95 shall be the contribution established pursuant to Section 20677.95, as adjusted by Section 7522.30, in excess of the compensation identified in subdivision (c) of Section 20677.95 and effective July 1, 2014, the normal rate of contribution for employees subject to subdivision (a) of Section 20677.95 shall be the contribution established pursuant to Section 20677.95, as adjusted by Section 7522.30, in excess of the compensation identified in subdivision (b) of Section 20677.95.

(b) The contribution rate for a related state employee who is exempted from the definition of "state employee," or an officer or employee of the executive branch who is not a member of the civil service, shall be adjusted accordingly.

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

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§ 20678. Local Safety Member Contributions

(a) For each local safety member subject to Section 21362, 21362.2, or 21363.1 by reason of the amendment of his or her employer's contract, or on the later date of entrance into this system, the normal rate of contribution shall be 9 percent of the compensation paid to those members. For those members whose service is included in the federal system, the normal rate of contribution shall be 9 percent of the compensation in excess of one hundred thirty-three dollars and thirty-three cents ($133.33) per month paid to those members.

(b) The normal rate of contribution for local safety members subject to Section 21363 shall be 8 percent of the compensation paid to those members. For those members whose service is included in the federal system, the normal rate of contribution shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238.00) per month paid to those members.

(c) Notwithstanding subdivision (b), the normal rate of contribution for local safety members of the City of Sacramento subject to Section 21363 shall be 9 percent of the compensation paid to those members.

(d) No adjustment shall be included in rates adopted under this section as the result of amendments hereto, changing the time at which members may retire or the benefits members will receive, because of time during which members have contributed at different rates prior to the adoption.

(e) The amendments to this section enacted during the first year of the 2001-02 Regular Session shall be operative retroactively to January 1, 2000.

(Added by Stats. 1968, Ch. 960, operative 12/1/68; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 20680. Member Contribution Rates—Auxiliary Organizations

Contracting agencies which are auxiliary organizations as defined in Section 89901 of the Education Code may by contract or by contract amendment provide the same rates of normal contributions for their employees who are local miscellaneous members as are applicable to state miscellaneous members pursuant to Section 20677 on the effective date of the contract or contract amendment.

(Added by Stats. 1977, Ch. 370; repealed and added by Stats. 1995, Ch. 379.)

§ 20681. Patrol Member Contributions

(a) The normal rate of contribution for patrol members shall be 8 percent of the compensation in excess of eight hundred sixty-three dollars ($863) per month paid those members. The Legislature reserves the right to increase the rate of contribution of patrol members as it may find appropriate from time to time.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the

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memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) The provisions of a memorandum of understanding pertaining to subdivision (a) may be applied to patrol members who either are excluded from the definition of state employees in subdivision (c) of Section 3513, or are nonelected officers or employees of the executive branch of government and are not members of the civil service, provided the Department of Personnel Administration has approved this inclusion and has notified the board.

(Added by Stats. 1983, Ch. 1258, effective 9/30/83; amended by Stats. 1992, Ch. 103, effective 6/30/92; and by Stats. 1994, Ch. 762, effective 9/23/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20682. State Member Contributions—Miscellaneous, Industrial, Peace Officer/Firefighter

Notwithstanding Sections 20677.4, 20677.5, 20677.6, 20677.9, 20683, 20683.1, 20686, and 20687, effective with the beginning of the pay period following enactment of this section, the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service shall be the following:

(a) For state miscellaneous or state industrial members:

(1) Nine percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system.

(2) Eight percent of compensation in excess of five hundred thirteen dollars ($513) per month paid to that member whose service has been included in the federal system.

(b) For state miscellaneous or state industrial members who are excepted from the definition of

"state employee" in subdivision (c) of Section 3513 and related to State Bargaining Unit 2:

(1) Nine percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system.

(2) Eight percent of compensation in excess of five hundred thirteen dollars ($513) per month paid to that member whose service has been included in the federal system.

(c) State safety members shall be 9 percent of compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is

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not included in the federal system or in excess of five hundred thirteen dollars ($513) for one whose service is included in the federal system.

(d) Peace officer/firefighter members shall be 11 percent of compensation in excess of eight hundred sixty-three dollars ($863) for state employees who are excepted from the definition of "state employee" in subdivision (c) of Section 3513 and related to State Bargaining Unit 6.

(e) Peace officer/firefighter members shall be 11 percent of compensation in excess of five hundred thirteen dollars ($513) for state employees who are excepted from the definition of "state employee" in subdivision (c) of Section 3513 and related to State Bargaining Unit 7.

(Added by Stats. 2010, Ch. 728, effective 10/19/10, operative 11/2/10.)

§ 20683. State Safety or Local Safety Member Contributions—Service Subject to Section 21369 or 21369.1

(a) For each state member subject to Section 21369 or 21369.1, the normal rate of contribution shall be 6 percent of compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system or in excess of five hundred thirteen dollars ($513) for one whose service is included in the federal system. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

(c) For each local safety member subject to Section 21369, the normal rate of contribution shall be 7 percent of compensation.

(d) The normal rate of contribution as established under this section for a local member whose service is included in the federal system and whose retirement allowance is reduced because of that inclusion shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service rendered after the date of execution of the modification of the federal-state agreement including those services in the federal system and prior to termination of his or her coverage under the federal system.

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(e) The operative date of this section with respect to a local safety member shall be the date upon which he or she becomes subject to Section 21369.

(Added by Stats. 1970, Ch. 1600; amended by Stats. 1971, Ch. 96; by Stats. 1972, Ch. 1035, Ch. 1098, and Ch. 1328; by Stats. 1974, Ch. 374; by Stats. 1975, Ch. 175, effective 6/30/75, operative 7/1/75; and by Stats. 1976, Ch. 341, effective 7/7/76, operative 7/1/76; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555; by Stats. 2002, Ch. 14, effective 3/21/02; and by Stats. 2012, Ch. 665.)

§ 20683.1. Contribution Rate—State Safety—Unit 2

(a) For each state safety member subject to Section 21369 or 21369.1 who is represented by State Bargaining Unit 2, the normal rate of contribution shall be 10 percent of compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system beginning with the pay period following the operative date of the amendments to this section made by Senate Bill 151 of the 2011-12 Regular Session. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

(Added by Stats. 2006, Ch. 28, effective 5/18/06; amended by Stats. 2011, Ch. 25, effective 5/16/11; and by Stats. 2012, Ch. 665.)

Note: Former Section 20683.1 was added by Stats. 2001, Ch. 365, effective 9/27/01, operative 8/31/01; amended by Stats. 2002, Ch.1, effective 1/16/02, operative 8/31/01; repealed by its own provisions 1/1/04.

§ 20683.2. Cost Sharing—Normal Costs—State Employees

Equal sharing of normal costs between the state employer and public employees shall be the standard. It shall be the standard that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution. Equal sharing of normal costs is currently the standard for most state employees.

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(a) Notwithstanding any other section of this code, or other provision of law in conflict with this section, except as provided in Section 7522.30, normal contribution rates for defined benefit plans for state employees of public employers as defined in paragraph (1) of subdivision (i) of Section 7522.04, excluding the California State University, which shall be subject to subdivision (b), shall be determined as follows:

(1) Normal cost contribution rates shall increase as follows:

(A) The contribution rate for State Peace Officer/Firefighter members in State Bargaining Unit 6 and for State Safety members in State Bargaining Units 1, 3, 4, 7, 9, 10, 11, 14, 15, 17, 20, and 21 will increase by 1.0 percentage point on July 1, 2013, and will increase by an additional 1.0 percentage point on July 1, 2014.

(B) The contribution rate for State Peace Officer/Firefighter members in State Bargaining Units 7 and 8 will increase by 1.5 percentage points on July 1, 2013, and will increase by an additional 1.5 percentage points on July 1, 2014.

(C) The contribution rate for state industrial members in State Bargaining Units 1, 3, 4, 6, 9, 10, 11, 14, 15, 17, and 20 will increase by 1.0 percentage point on July 1, 2013.

(D) The contribution rate for state miscellaneous and industrial members that have elected the Second Tier benefit formula will increase by 1.5 percentage points annually starting July 1, 2013. The final annual increase in the contribution rate shall be adjusted as appropriate.

(E) The contribution rate for State Safety members in State Bargaining Unit 2 and state miscellaneous members in State Bargaining Unit 5 will increase by 1.0 percentage point on July 1, 2013.

(F) The contribution rate for Patrol members in State Bargaining Unit 5 will increase by 1.5 percentage points on July 1, 2013.

(2) Consistent with paragraph (1), the normal rate of contribution shall be adjusted accordingly for related state employees who are exempted from the definition of "state employee," who are excluded from collective bargaining, or who are officers or employees of the executive, legislative, or judicial branch of state government who are not members of the civil service.

(b) On and after January 1, 2019, the California State University may require that members pay at least 50 percent of the normal cost of benefits, provided that their contribution shall be no more than 8 percent of pay for miscellaneous members subject to Section 21354.1, no more than 11 percent of pay for safety members, and no more than 13 percent of pay for peace officer/firefighter members.

(A) Before implementing any change pursuant to this paragraph, for any represented employees, the employer shall complete the good faith bargaining process as required by Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, including any impasse procedures requiring mediation and factfinding.

(B) Nothing in this section shall preclude employees of the California State University from agreeing to contribute more than the costs described in this subdivision for any benefit.

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(C) The Legislature authorizes to the California State University to increase member contribution rates pursuant to this paragraph, while reserving the right to adjust contribution rates under Section 20689 of the Government Code.

(c) Calculation of employee contribution rate increases pursuant to this section shall be based upon compensation calculations established pursuant to Sections 20671 to 20694, inclusive.

(d) In addition to the actuarially required contribution, savings realized by the state employer, excluding savings realized by the California State University, as a result of the employee contribution rate increases required or authorized by this section shall be allocated to any unfunded liability, subject to appropriation in the annual Budget Act. It is the intent of the Legislature that any savings realized from a change in contribution rates at the California State University pursuant to this section be retained by the university.

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

Note: Former Section 20683.2 was added by Stats. 2001, Ch. 363, effective 9/27/01, operative 8/31/01; amended by Stats. 2002, Ch. 1, effective 1/16/02, operative 8/31/01; and by Stats. 2002, Ch. 664; repealed by its own provisions 1/1/04.

§ 20683.3. Repealed

(Added by Stats. 2002, Ch. 14, effective 3/21/02, operative 1/1/02; repealed by its own provisions 1/1/04.)

§ 20683.4. Repealed

(Added by Stats. 2002, Ch. 190, effective 7/17/02, operative 5/1/02; repealed by its own provisions 1/1/04.)

§ 20683.5. Repealed

(Added by Stats. 2002, Ch. 278, effective 8/26/02, operative 4/1/02; repealed by its own provisions 1/1/04.)

§ 20683.6. Repealed

(Added by Stats. 2002, Ch. 456, effective 9/11/02, operative 7/1/02; repealed by its own provisions 1/1/04.)

§ 20684. Local Safety Member Contributions—2.35% at Age 56 (Section 21370)

For each local safety member subject to Section 21370, effective on January 1, 1985, or later date of entrance into this system as such a member, the normal rate of contribution shall be 7 percent of compensation.

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The normal rate of contribution as established under this section for a local safety member whose service is included in the federal system and whose retirement allowance is reduced pursuant to Section 21370 because of that inclusion shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service rendered after the date of execution of the modification of the federal-state agreement including services in the federal system and prior to termination of his or her coverage under the federal system.

The operative date of this section with respect to a local safety member shall be the date upon which the local safety member becomes subject to Section 21370.

(Added by Stats. 1984, Ch. 1065; repealed and added by Stats. 1995, Ch. 379.)

§ 20685. Local Member Age of Entry—Same as Local System

The normal rate of contribution for a local member who was a member of a local system at the time it was discontinued by inclusion of members of the local system in this system shall, if the contract so provides, be based on age at entry of the member into the local system.

(Added by Stats. 1957, Ch. 936, operative 10/1/57; repealed and added by Stats. 1995, Ch. 379.)

§ 20686. State Safety Member Contributions—Department of Justice—Section 21373

For each state safety member defined in Section 20401 and whose current and prior service pensions shall be computed pursuant to Section 21373, the normal rate of contribution shall be 8 percent and shall be made only on the compensation in excess of two hundred thirty-eight dollars ($238) per month. The Legislature reserves the right to increase the rate of contribution as it may find appropriate from time to time. No adjustment shall be included in rates adopted under this section as the result of amendments hereto, changing the time at which members may retire or the benefits members shall receive, because of time during which members have contributed at different rates prior to that adoption.

(Added by Stats. 1973, Ch. 445; amended by Stats. 1974, Ch. 374; by Stats. 1975, Ch. 175; and by Stats. 1976, Ch. 341, effective 7/7/76, operative 7/1/76; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 20687. State Peace Officer/Firefighter Member Contributions

(a) The normal rate of contribution for state peace officer/firefighter members subject to Section 21363, 21363.1, 21363.3, 21363.4, or 21363.8 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or pursuant to

Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) The Director of Human Resources may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

(Added by Stats. 1984, Ch. 280, effective 7/1/84; amended by Stats. 1987, Ch. 1148, effective 9/26/87; by Stats. 1988, Ch. 1176; by Stats. 1989, Ch. 10 and Ch. 1464, effective 10/2/89; by Stats. 1990, Ch. 840, effective 9/14/90; by Stats. 1991, Ch. 778, effective 10/10/91; and by Stats. 1992, Ch. 543, effective 8/24/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555; by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; by Stats. 2001, Ch. 785; by Stats. 2002, Ch. 1, effective 1/16/02, Ch. 14, effective 3/21/02, and Ch. 56; and by Stats. 2012, Ch. 665.)

§ 20687.1. Repealed

(Repealed by Stats. 2001, Ch. 785 and Ch. 793.)

§ 20687.2. State Peace Officer/Firefighter Supervisors Contributions—Corrections or Mental Health

Notwithstanding Section 20687, the normal rate of contribution for state peace officer/firefighter members who are supervisors within the boards and departments of the Youth and Adult Correctional Agency or who are correctional supervisors within the State Department of State Hospitals for pay periods beginning after April 30, 2001, shall be 8 percent of compensation in excess of eight hundred sixty-three dollars ($863) per month paid those members.

(Added by Stats. 2000, Ch. 902; amended by Stats. 2001, Ch. 797; and by Stats. 2012, Ch. 440.)

§ 20687.3. Repealed

(Added by Stats. 2001, Ch. 364, effective 9/27/01, operative 8/31/01; amended by Stats. 2002, Ch. 1, effective 1/16/02, operative 8/31/01; repealed by its own provisions 1/1/04.)

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§ 20687.4. Repealed

(Added by Stats. 2002, Ch. 1, effective 1/16/02, operative 8/31/01; repealed by its own provisions 1/1/04.)

§ 20688. Reduction in Retirement Allowance—Local Safety Service in Federal System

The normal rate of contribution otherwise established under this article for a local safety member whose retirement allowance is determined under Section 21362, 21362.2, 21363.1, or 21366, and reduced under Section 21367 because his or her service is included in the federal system, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) for services rendered in any month after the date of execution of the modification of the federal-state agreement, including services in the federal system, or the effective date of the contract or contract amendment pursuant to which a contracting agency and its employees become subject to this section, whichever is later, and prior to the date upon which services of persons in his or her employment cease to be covered under the federal system.

(Added by Stats. 1965, Ch. 1183; repealed and added by Stats. 1968, Ch. 941; amended by Stats. 1969, Ch. 752 and Ch. 753; by Stats. 1971, Ch. 1329 and Ch. 1657; and by Stats. 1972, Ch. 1098, operative 4/1/73; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 20689. Legislative Power to Adjust Contribution Rates

The Legislature reserves the right to increase or otherwise adjust the rates of contribution prescribed in this article in amounts and in a manner it may from time to time find appropriate.

(Added by Stats. 1968, Ch. 941, operative 12/1/68; renumbered by Stats. 1995, Ch. 379.)

§ 20690. Revocation of Contract and Amendments

Contract amendments, and that portion of a contract which subjected an employer to former Section 20614, as it read prior to its repeal by Chapter 1168 of the Statutes of 1980, may be revoked prospectively in the manner provided for the approval of contracts, including an election among employees affected.

(Added by Stats. 1977, Ch. 601; amended by Stats. 1978, Ch. 1177, effective 9/26/78; repealed and added by Stats. 1980, Ch. 1168, effective 9/29/80; renumbered by Stats. 1995, Ch. 379.)

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§ 20691. Employer Payment of Member Contributions—Schools or Contracting Agencies

(a) (1) Except as provided in subdivision (b), notwithstanding any other law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. Where the member is included in a group or class of employment, the payment shall be for all members in the group or class of employment. If an individual is not part of a group or class, the payment shall be limited to the amount that the board determines is payable to similarly situated members in the closest related group or class, subject to the limitations of paragraph (2) of subdivision (e) of Section 20636. The payments shall be reported simply as normal contributions and shall be credited to member accounts.

(2) Nothing in this subdivision shall be construed to limit the authority of a contracting agency or school employer to periodically increase, reduce, or eliminate the payment by the contracting agency or school employer of all or a portion of the normal contributions required to be paid by members, as authorized by this section.

(b) Notwithstanding subdivision (a), employers shall not pay a portion of the normal contributions for members who are subject to subdivision (c) of Section 7522.30, except where authorized pursuant to subdivision (f) of Section 7522.30.

(Added by Stats. 1980, Ch. 1168, effective 9/29/80; amended by Stats. 1982, Ch. 863; by Stats. 1993, Ch. 1297, operative 7/1/94; and by Stats. 1995, Ch. 830; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 2013, Ch. 526.)

§ 20692. Employer Paid Member Contributions Converted to Payrate During Final Compensation Period—Schools or Contracting Agencies

(a) Where a contracting agency employer or a school employer has elected to pay all or a portion of the normal contributions of members of a group or class of employment pursuant to Section 20691, the employer may, pursuant to a labor policy or agreement, stop paying those contributions during the final compensation period applicable to the members and, instead, increase the payrate of the members by an amount equal to the normal contributions paid by the employer on behalf of the employees in the pay period immediately prior to the final compensation period or increase the payrate of the members by an amount established by a labor policy or agreement in existence and in effect on June 30, 1993. That amount shall not exceed the amount of the normal member contributions that are required to be paid by the members.

(b) This section shall not apply to any contracting agency or to any school employer unless and until the contracting agency or the school employer elects to be subject to this section by amendment to its contract made in the manner

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prescribed for approval of contracts, except an election among the employees is not required. In the case of contracts made after July 1, 1994, the section shall not apply unless incorporated by express provision in the contract. However, no school employer may act pursuant to this section unless and until the board approves a request for the amendment of the contract of a school employer to authorize termination of the payment. A school employer shall not submit a request for a contract amendment unless there is on file a request to terminate that payment from the county superintendent of schools office and each school district, community college district, and other school entity within the jurisdiction of that school employer.

(c) Before adopting this provision, the governing body of a contracting agency or school employer shall, with timely public notice, place the consideration of this section on the agendas of two consecutive public meetings of the governing body, at which time, full disclosure shall be made of the nature of the benefit, the additional employer contributions, and the funding therefor. Only after the second of these public meetings may the governing body adopt this section. The employer shall notify the board of the employer's compliance with this subdivision at the time of the governing body's application to adopt this section.

(d) Persons hired after the effective date of an employer's contract amendment to include this section shall be informed by the employer of how this benefit relates to their total compensation and benefit package.

(e) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) in the case of a contract amendment, the additional contribution required to amortize the increase in accrued liability attributable to the benefit elected under this section over the unfunded actuarial liability period currently in the agency's contract, commencing from the date this section becomes effective in the agency's contract.

(f) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors necessary to calculate the employer's contribution shall be determined on the basis of actuarial assumptions and methods which, in combination, provide the board's best estimate of anticipated experience under the system. The board has the exclusive power and duty to make these determinations.

(g) Within 30 days of notification from the board to the contracting agency or school employer of the additional employer contributions required pursuant to this section, the contracting agency or school employer, or a recognized employee organization, or both, may file with the board a request for a review of the determination of the calculation of the additional employer contributions. The board shall promulgate regulations governing the conduct of the review, that shall include the means by which an employer or recognized employee organization may submit independent actuarial evidence regarding the additional contribution

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required by this section. The board shall make the final determination on the additional employer contributions needed to fund this contract amendment.

(h) This section shall not apply to a new member as defined in Section 7522.04.

(Added by Stats. 1993, Ch. 1297, operative 7/1/94; amended by Stats. 1995, Ch. 830; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 2013, Ch. 526.)

§ 20693. Employer Payment of Member Contributions—State or UC

(a) Except as provided in subdivision (b), notwithstanding any other law, the state or the Regents of the University of California may pay all or a portion of the normal contributions required to be paid by a state member. The payments shall be reported as employer-paid normal contributions and shall be credited to member accounts. Nothing in this subdivision shall be construed to limit the authority of the state to periodically increase, reduce, or eliminate the payment by the state of all or a portion of the normal contributions required to be paid by a state member, as authorized by this section.

This section shall be subject to any applicable collective-bargaining laws.

(b) Notwithstanding subdivision (a), employers shall not pay a portion of the normal contributions for members who are subject to subdivision (c) of Section 7522.30, except where authorized pursuant to subdivision (f) of Section 7522.30.

(Added by Stats. 1983, Ch. 794; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2013, Ch. 526.)

§ 20694. Patrol Member Contributions Paid by State

(a) This section shall apply only to patrol members in State Bargaining Unit 5.

(b) The state shall pay all of the normal contributions required to be paid by patrol members pursuant to Section 20681 until June 30, 2001.

(c) Notwithstanding Section 20681, effective July 1, 2001, the normal rate of contribution for patrol members shall be 1.5 percent of the compensation in excess of eight hundred sixty-three dollars ($863) per month paid those members. The state shall pay the difference between the normal contributions that would be required to be paid by patrol members pursuant to Section 20681 and the amount paid by those members pursuant to this section.

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

(Added by Stats. 1999, Ch. 778, effective 10/10/99.)

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ARTICLE 2. ADDITIONAL CONTRIBUTIONS

§ 20710. Election to Make Additional Contributions

Subject to rules prescribed by the board, any member or any employer, other than the state, on behalf of any group of miscellaneous members, any group of members designated by the employer as management employees, or any members, may elect to make contributions in excess of the member's normal contributions, for the purpose of providing additional benefits. The exercise of this privilege by a member does not require his or her employer to make any additional contributions. An election by an employer to make the additional contributions does not require any member to make additional contributions and the additional contributions shall continue in effect for the period as shall be specified in the election filed with the board and a member shall acquire no right by reason of his or her employment while the election is in effect to a continuation of those contributions beyond the period specified in the election. Upon application, the board shall furnish information concerning the nature and amount of additional benefits to be obtained from additional contributions. The board may by rule provide for refund of accumulated additional contributions to a member. However, a refund of additional contributions may be made to a member if an employer had made additional contributions on his or her behalf only as a part of a refund of accumulated contributions in accordance with this part.

Wherever in this part provision is made with respect to additional or accumulated additional contributions of a member the term shall include contributions made by an employer pursuant to this article.

The board shall provide for additional employer contributions to be credited at least monthly to the individual account of the member on behalf of whom the contribution is made.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; by Stats. 1959, Ch. 2007; by Stats. 1961, Ch. 1000; by Stats. 1974, Ch. 1177; and by Stats. 1975, Ch. 588; renumbered by Stats. 1995, Ch. 379.)

§ 20711. Additional Contributions Applied to Payments Due

Notwithstanding any other provision of this part, a member may at any time, in writing, authorize the board to apply any additional contributions standing to the member's credit as payment of any contributions required of the member or payable at the member's option pursuant to any provision of this part, except the normal monthly contributions required in Article 1 (commencing with Section 20670).

(Added by Stats. 1951, Ch. 1398; repealed by Stats. 1953, Ch. 1186; added by Stats. 1955, Ch. 570; amended by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379.)

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§ 20712. Terms of Election

An election by any member or any employer to make additional contributions in accordance with Section 20710 shall be effective only if it was filed with the board on or before June 30, 1983. Additional contributions may be made on and after July 1, 1983, in accordance with the terms of an election filed on or before June 30, 1983. A refund of accumulated additional contributions or an application of accumulated additional contributions as payment of any required contribution under Section 20711 shall terminate the privilege of making additional contributions if the refund or application occurs on or after July 1, 1983.

(Added by Stats. 1982, Ch. 1220, effective 9/22/82; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 3. SUPPLEMENTAL CONTRIBUTIONS PROGRAM [REPEALED]

§ 20720. Repealed

(Repealed by Stats. 1999; Ch. 307.)

§ 20721. Repealed

(Repealed by Stats. 1999; Ch. 307.)

§ 20722. Repealed

(Repealed by Stats. 1999; Ch. 307.)

§ 20723. Repealed

(Repealed by Stats. 1999; Ch. 307.)

§ 20724. Repealed

(Repealed by Stats. 1999; Ch. 307.)

§ 20725. Repealed

(Repealed by Stats. 1999; Ch. 307.)

ARTICLE 4. RETURN OF CONTRIBUTIONS

§ 20730. Request for Refund

At any time prior to the payment of his or her first retirement allowance, a person whose retirement was compulsory under this article may file with the board a request for refund of his or her accumulated contributions as of the effective date of the retirement, in lieu of any other benefit payable under this part.

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Upon receipt of the request so filed, the contributions shall be paid to that person immediately and that person shall not be entitled to any other benefit payable under this part.

(Added by Stats. 1955, Ch. 1141; amended by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379.)

§ 20731. Election to Leave Contributions on Deposit—Employment Under Reciprocal System

(a) Notwithstanding any other provision of this part, a member who is credited with less than the years of service specified in Article 1 (commencing with Section 21060) of Chapter 12 who enters employment as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System, or as a member of a county retirement system, within six months of leaving state service, 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. This section shall also apply to a member who is subject to Section 21076 or 21076.5.

(b) (1) An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time, except any of the following:

(A) While the member is employed in state service in a position in which the member is not excluded from membership with respect to that service.

(B) While the member is in service as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System.

(C) While the member is in service, entered within six months after discontinuing state service, as a member of a county retirement system.

(2) All accumulated contributions in a member's account up to the time of revocation shall be distributed in accordance with an election pursuant to Section 20735.

(3) A member who is permanently separated from all service covered by the system, who is not subject to paragraph (1), and who attains 70 years of age shall be provided with an election to withdraw contributions or, if vested, an election to either apply for service retirement or to withdraw contributions. Failure to apply for service retirement or to make an election to withdraw contributions within 90 days shall be deemed an election to withdraw contributions. If the person fails to either apply for service retirement or elect to withdraw contributions, or cannot, with reasonable diligence, be located, the accumulated contributions shall be distributed in accordance with Section 21500.

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(c) A member whose membership continues under this section is subject to the same age and disability requirements as apply to other members for service or for 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, except that the provisions in this part for minimum service and disability retirement allowances shall not apply to the member, unless the member meets the minimum service requirements. If a basic death benefit becomes payable under Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), and Article 5 (commencing with Section 21620) of Chapter 14 because of death before retirement of a member, the average annual compensation earnable in the year preceding the date of termination of that service, rather than in the year preceding death, shall be used in computing the benefit under Articles 1, 2, and 5 of Chapter 14.

The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on that date.

(Added by Stats. 1945, Ch. 1198; amended by Stats. 1947, Ch. 1140; by Stats. 1949, Ch. 298; by Stats. 1951, Ch. 612; by Stats. 1953, Ch. 250 and Ch. 1186; by Stats. 1957, Ch. 2399; by Stats. 1959, Ch. 776; by Stats. 1971, Ch. 170; by Stats. 1978, Ch. 900; by Stats. 1980, Ch. 1102; by Stats. 1982, Ch. 1220, effective 9/21/82; by Stats. 1983, Ch. 395; by Stats. 1986, Ch. 199, effective 6/27/86; and by Stats. 1990, Ch. 1544, effective 9/30/90, operative 12/1/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 2009, Ch. 240; and by Stats. 2013, Ch. 526.)

§ 20732. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 20733. Member Permanently Separated from State Service

A member who ceases to be entitled to credit in this system for future service because of Section 20300 shall be considered permanently separated from state service with respect to his or her right to withdraw contributions.

(Added by Stats. 1979, Ch. 120, effective 6/15/79; renumbered by Stats. 1995, Ch. 379.)

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§ 20734. Payment to Former Member

The payment of accumulated contributions to a former member shall include current year interest through the date in which the claim is filed with the office of the Controller.

(Added by Stats. 1985, Ch. 288; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20735. Discontinuation of State Service or Membership

If the state service or membership of a member is discontinued, he or she shall, upon his or her request, be paid his or her accumulated contributions, if, in the opinion of the board, he or she is permanently separated from state service or membership by reason of the discontinuance.

This section shall not apply to discontinuance of state service or membership as a result of retirement or death on account of which a basic, a limited, or a special death benefit is payable.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140; by Stats. 1951, Ch. 612; by Stats. 1971, Ch. 170, operative 7/1/71; and by Stats. 1980, Ch. 1102; repealed and added by Stats. 1981, Ch. 609; amended by Stats. 1990, Ch. 1544, effective 9/30/90, operative 12/1/90; renumbered by Stats. 1995, Ch. 379.)

§ 20736. Repealed

(Added by Stats. 1983, Ch. 909; amended by Stats. 1987, Ch. 1164; renumbered by Stats. 1995, Ch. 379; repealed by Stats. 1999, Ch. 785.)

§ 20737. Member Account—Election to Second Tier

The account of a member who elects to be subject to Section 21076 or 21076.5 shall be paid current year interest through the effective date of that election for service rendered as a state miscellaneous or state industrial member. Interest subsequent to the effective date of that election shall accrue at a rate determined by the board. The member shall not receive his or her accumulated contributions plus interest until the time of retirement or upon request after permanent separation from state service. Interest shall be paid through the day prior to retirement or through the date on which the claim is filed with the Controller. This section does not apply to a member who elects to be subject to Section 21077.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; amended by Stats. 1986, Ch. 199, effective 6/27/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 680; and by Stats. 2013, Ch. 526.)

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ARTICLE 5. REDEPOSIT OF CONTRIBUTIONS

§ 20750. Election to Redeposit

Subject to regulations adopted by the board, a member may file an election with the board to redeposit in the retirement fund, in a lump sum or by installment payments, (1) an amount equal to the accumulated contributions that he or she has withdrawn at one or more terminations of service, or for one withdrawal at a time, but in reverse chronological order in which they occurred, and (2) an amount equal to the interest that would have been credited to his or her account to the date of completion of payments had the contributions not been withdrawn, and (3) if he or she elects to redeposit in other than one sum, interest on the unpaid balance of the amount payable to the retirement fund, beginning on the date of the election to redeposit, as if the member interest crediting rate in effect on the date of the election to redeposit had been and continued to be in effect through the completion of the payments.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 1140; by Stats. 1949, Ch. 298; by Stats. 1951, Ch. 612; by Stats. 1955, Ch. 1818; by Stats. 1971, Ch. 414, operative 4/1/72; by Stats. 1978, Ch. 799; by Stats. 1985, Ch. 176, effective 7/8/85; by Stats. 1989, Ch. 891, effective 9/26/89; and by Stats. 1993, Ch. 1168; repealed and added by Stats. 1995, Ch. 379.)

§ 20751. Member Redeposit Upon Nonmember Refund

If a nonmember, as defined in Section 21291, withdraws accumulated contributions in accordance with Section 21292, the member may redeposit those contributions pursuant to this article.

(Added by Stats. 1991, Ch. 892, effective 10/14/91; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 855.)

§ 20751.5. Member Right to Redeposit upon Nonmember Refund—Section 21290

A member whose right to redeposit contributions has been awarded in part to a nonmember, pursuant to paragraph (3) of subdivision (c) of Section 21290, may elect to redeposit contributions for the same amount that the nonmember was entitled to redeposit, if the nonmember has permanently waived all rights in the system by effecting a refund of accumulated contributions pursuant to Section 21292. A member electing to redeposit contributions pursuant to this section shall make the redeposit pursuant to Section 20750.

(Added by Stats. 2003, Ch. 855.)

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§ 20752. Redeposit by Member of Other Public Retirement System

(a) A member of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement Plan, the University of California Retirement Plan, or a county retirement system, who has withdrawn accumulated contributions from this system shall have the right to redeposit those contributions, subject to the same conditions as imposed for redeposits of accumulated contributions by Section 20750, including the rights that he or she would have had under Section 20638 had he or she not withdrawn his or her contributions.

(b) Provisions of this section extending a right to redeposit accumulated contributions withdrawn from this system shall also apply to members of 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 any 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 this system and with respect to which the governing body of the city, city and county or public agency and the board have entered into agreement pursuant to Section 20351.

(c) A member who elects to redeposit under this section shall have the same rights as a member who has elected pursuant to Section 20731 to leave his or her accumulated contributions on deposit in the fund.

(Added by Stats. 1965, Ch. 1594; amended by Stats. 1967, Ch. 1615; by Stats. 1974, Ch. 353; by Stats. 1975, Ch. 1002; and by Stats. 1982, Ch. 1220, effective 9/22/82; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 2003, Ch. 10, effective 5/14/03; Ch. 62, and Ch. 519; and by Stats. 2005, Ch. 328.)

§ 20753. Redeposit—Arrears Contributions

Contributions due to this system because of salary earned after reentry into state service following withdrawal and prior to redeposit of accumulated contributions, but not paid to this system because of termination of state service before completion of the necessary administrative procedures, shall be administered upon subsequent reentry into this system, as if the member had withdrawn the contributions, and the termination of state service shall be considered as a termination of membership.

(Added by Stats. 1951, Ch. 612, operative 10/1/51; renumbered by Stats. 1995, Ch. 379.)

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§ 20754. Amounts Included in Redeposit

Any amount that a member elected to pay under any election with respect to normal contributions permitted under this part prior to withdrawal of accumulated contributions, including amounts unpaid at the time of the withdrawal, and any amount of arrears contributions then unpaid shall be included, upon subsequent reentry into this system, in the amount of withdrawn contributions for purposes of redeposit under this article. Upon the redeposit of withdrawn contributions, a member shall be entitled to all rights accruing from that election with respect to normal contributions in all respects as though payment had been completed at the time of the withdrawal of accumulated contributions.

(Added by Stats. 1957, Ch. 936, operative 10/1/57; repealed and added by Stats. 1995, Ch. 379.)

§ 20755. Reentering System After Termination of Membership

Upon reentering this system after a termination of his or her membership, if a member does not elect to redeposit withdrawn contributions as provided in Section 20750 or, having so elected, subsequently does not make the redeposit, he or she reenters as a new member without credit for any service except the prior service credited to him or her before termination and any service that is credited prior to termination of membership pursuant to subdivision (c) of Section 20340.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; by Stats. 1951, Ch. 612; by Stats. 1953, Ch. 1186; by Stats. 1955, Ch. 1818; by Stats. 1969, Ch. 752; by Stats. 1970, Ch. 457, operative 12/1/70; and by Stats. 1980, Ch. 481; repealed and added by Stats. 1995, Ch. 379.)

§ 20756. Employer Liability for Service Credit from Member Redeposit

Benefits based on service credited under this article and Article 4 (commencing with Section 20730), where the service credit is derived from a member's redeposit of contributions, shall be paid from contributions of the employer or employers which is or are the source of the contributions redeposited by the member. The employer liability in this regard shall be limited only to its contributions and no employer shall be liable for any portion of the member's own contributions. All employer contributions, for purposes of this article, shall be made by adjustment of the employer's rate of contribution.

(Added by Stats. 1988, Ch. 331, effective 7/14/88; repealed and added by Stats. 1995, Ch. 379.)

ARTICLE 6. CONTRIBUTION PROCEDURE

§ 20770. Board Notification to State Employers of Member Contribution Rate

The board shall furnish, in a manner determined by it, to the head of each state agency and court and to the comptroller of the university the normal rate of contribution for, and the amount of any other contributions payable by, each member employed therein. The state agency head, comptroller, or the Controller, as the case may be, shall apply that rate of contribution to the compensation of each member.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379.)

§ 20771. State Member Contributions—Deduction from Compensation

Each head of a state agency for which the member's compensation is paid directly by the Controller shall furnish to the Controller the normal rate of contribution for, and the amount of any other contributions payable by, each member employed therein. The Controller shall deduct from the compensation of each member and remit to the board the contributions so determined and the other contributions payable, and furnish to the board a statement of contributions deducted, with respect to each member, together with other information the board may require.

Each head of a state agency that directly pays the member's compensation shall deduct from the compensation of each member and remit to the board the contributions so determined and the other contributions payable, and furnish to the board a statement of contributions so deducted, with respect to each member, together with other information the board may require.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379.)

§ 20772. State Member Contributions—Non-State-Controlled Compensation

When a member employed by the state is assigned to service for which he or she is compensated from funds not directly controlled by the state, he or she shall contribute to the retirement fund at the rate certified by the board, applied to the compensation earnable by him or her immediately preceding that assignment. The head of each state agency in which a member assigned to that service is employed shall notify the member of his or her individual rate of contribution and the amount of the monthly contribution payable by him or her to the retirement fund, and shall furnish monthly to the board a list of the employees so assigned during the preceding month, together with the rate of compensation earnable by each. Within 15 days of the receipt of compensation for that service in any month, the

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member rendering that service shall transmit his or her contribution in respect to that service to the office of this system in Sacramento. Any contribution remaining unpaid for 30 days after the completion of the assignment of the member and his or her return to the state payroll shall be deducted from his or her compensation for the next succeeding month or months as the board may provide by rule.

(Added by Stats. 1945, Ch. 852; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20772.5. National Guard Member Contributions

(a) Notwithstanding any other provision of this part, a National Guard member shall contribute to the retirement fund at the rate applicable to state miscellaneous members and applied to the compensation earned by him or her during the period or periods of contribution. In addition to the normal rate of contribution provided in Section 20677.4, a National Guard member shall also pay the employer contribution, at the rate established in Section 20814, attributable to the service of that member. All contributions described in this section will be deposited in the account of the National Guard member and administered as normal contributions of that member.

(b) (1) The Military Department shall notify the member of his or her total rate of contributions and the amount of the monthly contribution payable by him or her to the retirement fund. The member shall transmit his or her contribution with respect to the service described in the notice by the Military Department. The Military Department shall transmit the contributions to the system as described in rules and regulations adopted by the board.

(2) If the member fails to pay the contribution within one month after receipt of the notice, the amount of contribution due shall accrue interest, at the rate described in Section 20059, as calculated by the Military Department, with interest to be added to the amount owed for the subsequent month. The system shall not be obligated to attempt to collect any delinquent payments. A member may not be credited with service under this part until the contribution with respect to that service, plus any accrued interest, is paid in full.

(c) The Military Department shall periodically furnish to the board a list of the members subject to this section.

(Added by Stats. 2007, Ch. 355.)

§ 20772.6. National Guard Member—Military Department Reimbursements

Under conditions established by the board, the system may periodically bill the Military Department for reimbursement of the administrative and program costs of administering the membership and service credit of National Guard members.

(Added by Stats. 2007, Ch. 355.)

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§ 20773. University Member Contributions—Deduction from Compensation

The comptroller of the university shall deduct from the compensation of each university member and remit to the board the contributions so determined and the other contributions payable, and furnish to the board a statement of the contributions so deducted, with respect to each member, together with any other information the board may require.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379.)

§ 20774. Local Member Contributions—Deduction from Compensation

The board shall furnish, in a manner determined by it, to the clerk or other officer designated by the governing body, of each contracting agency the normal rate of contribution for, and the amount of any other contributions payable by, each local member employed therein. The officer shall apply the rate of contribution to the compensation of each local member and deduct from that compensation and remit to the board the contributions so determined and the other contributions payable, and furnish to the board a statement of the contributions so deducted, with respect to each member, together with any other information the board may require.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379.)

§ 20775. Crediting of Member Contributions

Each member's contribution deducted and remitted or otherwise paid to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution is in full discharge of all claims and demands whatsoever for the service rendered by the members during the period covered by the payment, except the benefits afforded by this part.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 852; renumbered by Stats. 1995, Ch. 379.)

§ 20776. Treatment of Unpaid Contributions—Members' Disability or Death

(a) If a basic death benefit becomes payable before the payment of the total amount the member elected to pay under any election with respect to normal contributions, arrears contributions, absences, or public service credit permitted under this part, the member's entire compensation, or the service upon which that total amount was based, as the case may be, shall be included in the computation of the portion of the death benefit that is provided in subdivision (b) of Section 21532, and the unpaid balance of the total amount may not be paid to this system,

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nor may it be included in the member's accumulated contributions that constitute a part of the basic death benefit.

(b) Any balance of any total amount remaining unpaid at the death of the member on account of whom a special death benefit is payable or at the retirement of a member for industrial disability may be subject to Section 21037 when payment of the balance would not increase the allowance payable. When the balance of the amount remaining unpaid would increase the allowance payable, the balance shall become due and payable immediately, except that the survivor of a member who died under circumstances under which a special death benefit is payable and who had authorized payroll deductions may elect to continue those deductions from the survivor allowance in lieu of the lump-sum payment otherwise required. If the balance is not paid, the portion of the unpaid amount representing contributions on compensation earned in the membership applicable to the member at the time of injury resulting in death or disability shall be deducted from the benefit otherwise payable and this system shall be discharged from any liability for any annuity or benefit with respect to any remainder of the unpaid contribution.

(c) Any balance of the total amount remaining unpaid at the time of retirement for service or ordinary disability, or at death, with respect to which a benefit is payable under Section 21546, may be subject to Section 21037 when payment of the balance would not increase the allowance payable. When the balance of the amount remaining unpaid would increase the allowance payable, the balance shall become due and payable immediately, except that the survivor of a member who died under circumstances under which a benefit under Section 21546 is payable and who had authorized payroll deductions may elect to continue those deductions from the survivor allowance in lieu of a lump-sum payment of the balance due. If the balance is not paid, the service credit included in the election shall be reduced proportionately and any service credit dependent on completion of payments eliminated for purposes of computing the allowance but not for purposes of determining entitlement to an allowance.

(d) Notwithstanding any provision of subdivision (b) or (c), a member who retires before payment of the total amount which he or she elected to pay, may elect to pay the balance due, or the total amount if no payroll deductions had been made prior to retirement, by deductions from his or her retirement allowance equal to those which the member authorized as payroll deductions. In that case, service credit included in the election may not be reduced, nor may any prior service dependent on completion of payments be eliminated for purposes of computing the allowance. Any balance of the total amount remaining unpaid upon the death of the member shall be treated in the same manner as unpaid balances are treated if a special death benefit is payable, except that the survivor of a retired member who had authorized deductions from his or her retirement allowance in accordance with this subdivision, and who is eligible for a monthly allowance,

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may elect to continue those deductions from the survivor's allowance in lieu of the lump-sum payment otherwise required.

(e) Interest paid with respect to normal contributions, arrears contributions, absences, or public service credit permitted under this part, prior to date of retirement or death of the member, shall be credited to the member's individual account. Interest paid after the date of retirement or death of the member shall be credited to the retirement fund pursuant to Section 20174.

(Added by Stats. 1949, Ch. 298 and Ch. 747; amended by Stats. 1959, Ch. 730; by Stats. 1967, Ch. 1454; by Stats. 1976, Ch. 1444, effective 10/1/76; by Stats. 1978, Ch. 900; by Stats. 1979, Ch. 240; by Stats. 1980, Ch. 1168, effective 9/29/80; by Stats. 1982, Ch. 72, effective 3/1/82; and Ch. 1220, effective 9/22/82; and by Stats. 1989, Ch. 1143; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2003, Ch. 855.)

Chapter 9. Employer Contributions

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§ 20790. "Employer"—Contracting Agency

Except as provided in Section 20815, "employer" for purposes of this chapter means any contracting agency, except a contracting agency on and after the effective date of the contracting agency's election to be subject to any

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amendment of this part that provides that it is inapplicable to a contracting agency until the agency elects to be subject thereto.

(Added by Stats. 1991, Ch. 678; amended by Stats. 1992, Ch. 673; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20791. Employer Actuarial Liability Significant Increase—Contracting Agency

(a) The board shall define a significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee and shall implement program changes to ensure that a contracting agency that creates the significant increase in actuarial liability bears the increased liability, including any portion of that liability that otherwise would be borne by another contracting agency or agencies.

(b) Upon determining the significant increase in actuarial liability, the system actuary shall assess the increase to the employer that created it and adjust that employer's rates to account for the increased liability.

(c) This section shall not apply to compensation paid to an employee for service performed while covered by a memorandum of understanding or to compensation paid for service performed while a member of a recognized employee organization as that term is defined in Section 3501.

(d) This section shall apply to any significant increase in actuarial liability, due to increased compensation paid to a nonrepresented employee, that is determined after January 1, 2013, regardless of when that increase in compensation occurred.

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

Note: Former 20791 repealed by Stats. 2003, Ch. 10, effective 5/14/03.

§ 20794. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20795. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20796. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20799. Interest Credited on Employer Contributions

The board shall credit all contributions of the state, school employer, and contracting agencies in the retirement fund with interest at the current net earnings rate compounded at each June 30.

(Added by Stats. 1982, Ch. 330, effective 6/30/82, operative 1/1/83; renumbered by Stats. 1995, Ch. 379.)

§ 20800. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20801. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20802. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20804. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20805. "Compensation Paid" while on Military Leave

As used in determining the state's contribution, "compensation paid" includes the compensation a member absent on military service would have received were it not for his or her absence in that service, if the normal contributions for the period of absence are made. The rate of his or her compensation shall be his or her compensation at the commencement of his or her absence. The percentages of state contribution specified in this chapter apply to all compensation upon the basis of which members' contributions are deducted after those percentages became or become effective, without regard to the time when the service was rendered for which the compensation is paid.

(Added by Stats. 1949, Ch. 298; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 538.)

§ 20806. Additional Contributions for Unpaid Liability—Prior Service—School or Contracting Agency Employees

Each contracting agency and school employer that is an employer for purposes of this chapter shall make contributions in addition to those otherwise specified in this chapter in amounts to be fixed and determined by the board on account of unpaid liability for prior service and on account of liability for benefits under Sections 21624 through 21628, inclusive, and 21571 and benefits provided local safety members. Payments shall be under any arrangement as may be agreed to by the board.

(Added by Stats. 1967, Ch. 1631; amended by Stats. 1971, Ch. 170; by Stats. 1972, Ch. 1413; by Stats. 1973, Ch. 1192; by Stats. 1982, Ch. 330, effective

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6/30/82, operative 7/1/83; and by Stats. 1983, Ch. 142; renumbered by Stats. 1995, Ch. 379.)

§ 20807. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20808. Additional Contributions for Disability or Death Benefits—Contracting Agencies

(a) The actuary may, in determining contributions required of contracting agencies, establish a contribution with respect to industrial disability allowances, special death benefits, and any other death benefit, singly or in any combination, separate from and independent of the contribution required for other benefits under their contracts. The total contribution, in that case, for the agencies as a group shall be established and from time to time adjusted by actuarial valuation performed by the actuary of the liability for the benefit or benefits on account of the employees of all those agencies. Adjustments shall affect only future contributions and shall take into account the difference between contributions on hand and the amount required to fund the allowances or benefits for which entitlement has already been established as well as liability for future entitlements to benefits. The contribution as so established and adjusted from time to time shall be allocated between the agencies on a basis that, in the opinion of the board, after recommendation of the actuary, provides an equitable distribution between the agencies. However, the allocation shall not be based on differences in the incidence of death or disability in the respective agencies.

(b) (1) Whenever the board, pursuant to subdivision (a), establishes a separate contribution, it shall maintain the contribution and any contributions required to be made by employees towards the cost of the benefit or benefits as a separate account, which shall be available only for payment of the benefit or benefits and shall not be a part of the accumulated contributions under this system of any of the employers or members included.

(2) All contributions in that account, irrespective of the agency from which they were received, shall be available for payment of the benefit or benefits with respect to the employees of any agency included. In the event of termination of any agency's participation in this system, the liability with respect to all those benefits to which the agency's employees have become entitled, after establishment of the rate and prior to the termination, shall be its contributions, as established under subdivision (a), that have become due and payable as of the date of termination.

(Added by Stats. 1961, Ch. 582, operative 10/1/61; amended by Stats. 1991, Ch. 83, effective 6/30/91; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 538.)

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§ 20809. Increased State Contributions—Benefits for Specified State Safety Members

The state shall make the increased contributions required on account of liability for benefits provided by Section 20414 from social security contributions which would have been payable by the employer had Section 20414 not been enacted up to an amount necessary to fully fund the cost of those benefits.

(Added by Stats. 1982, Ch. 37, effective 2/17/82; repealed and added by Stats. 1995, Ch. 379.)

§ 20810. Increased State Contributions—Benefits for Specified State Safety Members

The state shall make the increased contributions required on account of liability for benefits provided by Section 20415 from social security contributions which would have been payable by the employer had Section 20415 not been enacted up to an amount necessary to fully fund the cost of those benefits.

(Added by Stats. 1982, Ch. 1220, effective 9/22/82; repealed and added by Stats. 1995, Ch. 379.)

§ 20811. Increased State Contributions—Benefits for Specified State Members

The state shall make the increased contribution required on the account of liability for benefits provided by Sections 20409, 20410, and 21151 from social security contributions that would have been payable by the employer had Sections 20409 and 20410 not been enacted, up to an amount necessary to fully fund the cost of those benefits.

(Added by Stats. 1982, Ch. 1425, effective 9/27/82; renumbered by Stats. 1995, Ch. 379.)

§ 20812. Amortization Periods—Schools or Contracting Agencies

Notwithstanding any other provision of this part, the board may adopt a funding period of 30 years to amortize unfunded accrued actuarial obligations for current and prior service for the purpose of determining employer contribution rates for contracting agencies and school employers. The board shall approve new amortization periods based upon requests from contracting agencies or school employers that can demonstrate a financial necessity. The board may deny a request when the request would subject the fund to an unsound financial risk. This section shall not affect the current procedure for setting the school employer rate. The board shall continue to treat the school category as a total experience pool with no requirement to establish separate rates for a school district subject to this section.

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(Added by Stats. 1992, Ch. 707, effective 9/15/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2011, Ch. 440.)

§ 20813. Amortization Period—State Miscellaneous or Peace Officer/Firefighter Benefits

The board may adopt an amortization period of 40 years for any unfunded actuarial liability for the benefits applicable to all state miscellaneous members and all state peace officer/firefighter members.

(Added by Stats. 1990, Ch. 463, effective 7/31/90; renumbered by Stats. 1995, Ch. 379.)

§ 20814. Annual Adjustment to Employer Contribution Rates

(a) Notwithstanding any other provision of law, the state's contribution under this chapter shall be adjusted from time to time in the annual Budget Act according to the following method: as part of the proposed budget, the Governor shall include the contribution rates adopted by the board for the liability of benefits on account of employees of the state. The Legislature shall adopt the board's contribution rates and authorize the appropriation in the Budget Act.

(b) In the event a memorandum of understanding goes into effect pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) that was not previously considered by the board in adopting its most recent annual employer contribution rates and that memorandum of understanding contains a change in employee retirement contributions, benefits, or pension plan design, including a change that alters a state employee's retirement contributions, or there is a change in unrepresented employees' retirement contributions, benefits, or pension plan design to be consistent with those of related classifications and groups of represented employees, the board may, in its discretion, adopt new quarterly employer contribution rates for future contributions for the state plans to reflect these changes. If the board adopts new rates for the state plans to reflect a change in employee retirement contributions, benefits, or pension plan design, the Director of Finance shall reduce or increase the percentage levels of the state's retirement contribution to reflect the new rates. Nothing in this section shall require the board to take action as described herein unless the board determines, in good faith, that the action described herein is consistent with the fiduciary responsibilities of the board described in Section 17 of Article XVI of the California Constitution.

(c) The employer contribution rates for all other public employers under this system shall be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of a change in rate.

(Added by Stats. 1991, Ch. 83, effective 6/30/91; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 10, effective 5/14/03; and by Stats. 2011, Ch. 440.)

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§ 20815. Setting Employer Contributions—Contracting Agencies

(a) Notwithstanding any other provision of this part, including, but not limited to, Sections 20225 and 20790, the board shall not combine the assets and liabilities of public agency employers into a single account for the purpose of setting a uniform rate of employer contributions for all public agency employers. The rate at which a public employer's contribution to this system shall be fixed shall be based upon its own experience. Provisions of law that provide authority for this system to combine the assets and liabilities of public employers into a single account for purposes of establishing a uniform rate are superseded to the extent that they provide that authority. For purposes of this section only, references to public employers shall not be construed to include school employers.

(b) Notwithstanding subdivision (a), the assets and liabilities of a county and a trial court jointly contracting with the board under Section 20460.1 shall be combined for purposes of setting the employer contribution rate for both the county and the trial court.

(Added by Stats. 1989, Ch. 1427, effective 10/2/89; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1010.)

§ 20815.5. One-Time Computation—Butte and Solano County

(a) The board shall, within its existing resources, prepare both of the following:

(1) For the joint contract of Butte County and the Butte County trial court, a one-time separate computation of the assets and liabilities of the Butte County trial court and those of Butte County, as determined by the actuary.

(2) For the joint contract of Solano County and the Solano County trial court, a one-time separate computation of the assets and liabilities of the Solano County trial court and those of Solano County, as determined by the actuary.

(b) For purposes of this section and the computation of assets and liabilities, the following shall apply:

(1) A person shall be deemed a trial court employee for service that satisfies either of the following:

(A) If the person was employed by the trial court on January 1, 2001, all continuous service for the county immediately preceding January 1, 2001, regardless of whether that service was as a county employee or a county employee assigned to the trial court.

(B) Any service on or after January 1, 2001, that the person is employed by the trial court.

(2) A person shall be deemed a county employee for service that satisfies any of the following:

(A) Any period of service prior to January 1, 2001, that is not described in subparagraph (A) of paragraph (1).

(B) Any service on or after January 1, 2001, that the person is employed by the county.

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(c) On or before March 1, 2008, each respective trial court and county described in subdivision (a) shall identify and send to the board the following information:

(1) Those active, inactive, and retired members that are considered county employees and those active, inactive, and retired members that are considered trial court employees.

(2) Any lump-sum payments previously made by either the county or the trial court to the system that covers the period from January 1, 2001, to January 1, 2008, inclusive.

(d) On or before October 1, 2008, the board shall forward the computation described in subdivision (a) to each respective county and the trial court for that county. The computation shall be based upon the most recent annual actuarial valuation at the time the data described in subdivision (c) is received by the board.

(e) Nothing in this section shall be construed to effect the combined calculation of assets and liabilities for purposes of setting the employer contribution rate for both a county and a trial court as described in subdivision (b) of Section 20815.

(Added by Stats 2007, Ch. 256, urgency effective 9/29/07.)

Note: Former Section 20815.5 repealed by Stats. 2002, Ch. 1133.

§ 20816. Transfer of Employer Assets for Member Contributions or Retiree Health

(a) Notwithstanding any other provision of this part, all assets of an employer shall be used in the determination of the employer contribution rate for the membership comprising the basis of the computation. Assets held shall be recognized over the same funding period used to amortize unfunded accrued actuarial obligations, whether in excess of the accrued actuarial obligation or not, using the entry age normal funding method.

(b) On and after January 1, 1999, contracting agencies for which the actuarial value of assets exceeds the present value of benefits as of the most recently completed valuation, as determined by the chief actuary, may request that the board transfer employer assets to member-accumulated contribution accounts to satisfy all or a portion of the member contributions required by this part. That transfer shall be over a 12-month period provided the actuarial value of assets exceeds the present value of benefits. In determining the present value of benefits and the actuarial value of assets for purposes of this part, liabilities and assets attributed to the 1959 survivor allowance may not be included. On and after January 1, 2003, a transfer of assets may not be made pursuant to this subdivision unless all or the same portion of the member contributions of each member in a membership classification are satisfied through the transfer. An employer electing a transfer of assets pursuant to this subdivision shall satisfy the members' contributions for a period of not less than one month and not more than one year.

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(c) On and after January 1, 2002, any contracting agency for which the actuarial value of assets exceeds the present value of benefits as of the most recently completed valuation, as determined by the chief actuary, may request that the board transfer from the contracting agency's employer account excess assets, as determined by the board subject to the requirements and limitations of Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420), to a retiree health account established by the board, in its discretion, in the contracting agency's employer account pursuant to Section 401(h) of the Internal Revenue Code (26 U.S.C. 401(h)) for the purpose of providing health benefits to the contracting agency's retirees and their covered dependents. The board may, in its discretion, transfer excess assets from the contracting agency's employer account to that contracting agency's retiree health account within that agency's employer account, if the transfer meets the conditions of a qualified transfer pursuant to Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420). The transferred assets shall be used solely for the payment of current retiree health liabilities. That qualified transfer shall be made only once each year. The board may adopt regulations necessary to implement this subdivision. Notwithstanding any other provision of law, the regulations may provide for the nonforfeiture of accrued pension benefits of participants and beneficiaries of a plan from which excess assets are transferred to the extent necessary for the transfer to meet the conditions of a qualified transfer pursuant to Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420), and may include any other provision necessary under Section 420 of the Internal Revenue Code (26 U.S.C. Sec. 420) or Section 401(h) of the Internal Revenue Code (26 U.S.C. Sec. 401(h)) to accomplish the purposes of this subdivision.

(d) For the purpose of this section, "employer" means any contracting agency, the state, or a school employer.

(e) The actuarial report in the annual financial report shall also express the effect upon employer contribution rates of this section and of the recognition of net unrealized gains and losses.

(Added by Stats. 1990, Ch. 1656; repealed and added by Stats. 1995, Ch. 379, operative 7/1/97; amended by Stats. 1998, Ch. 231; by Stats. 2001, Ch. 781; by Stats. 2002, Ch. 664 and Ch. 1139; and by Stats. 2003, Ch. 519.)

§ 20817. Repealed

(Repealed by its own provisions 1/1/98.)

§ 20820. Use of Surplus Funds—State Patrol Member Category

Notwithstanding Section 20816, surplus funds credited to the patrol member category shall be used to reduce the state employer contribution to this system. Surplus funds in the patrol member category may also be used to reduce the member contributions required by Section 20677.8, under the terms of a memorandum of understanding reached pursuant to Section 3517.5.

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(Added by Stats. 1992, Ch. 103, effective 6/30/92; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2011, Ch. 440.)

§ 20821. Additional Contribution for Past Service—School or Contracting Agency Employees

(a) The contribution to the retirement fund of a school employer or a contracting agency electing to be subject to Section 20325 with respect to school members and local members making payments pursuant to Section 20325 for past service that was less than the minimum prescribed by paragraph (2) of subdivision (a) of Section 20305 because of service of less than 20 hours a week, prior to the enactment of Section 20325, shall be increased by an amount or a percentage of the compensation paid to those members determined by the board.

(b) The additional contribution imposed pursuant to subdivision (a) shall include an amount to pay the reasonable administrative expenses incurred by the board in establishing the additional contribution required in subdivision (a).

(Added by Stats. 1988, Ch. 1013; renumbered by Stats. 1995, Ch. 379.)

§ 20822. Quarterly General Fund Appropriation—State Employer Contribution

(a) From the General Fund in the State Treasury there is appropriated quarterly, to the retirement fund, the state's contribution for all of the following:

(1) All state miscellaneous members and all other categories of members whose compensation is paid from the General Fund.

(2) All university members whose compensation is paid from funds of, or funds appropriated to, the university.

(3) All state miscellaneous members who are employed by the State Department of Education or the Department of Rehabilitation and whose compensation is paid from the Vocational Education Federal Fund, the Vocational Rehabilitation Federal Fund, or any other fund received, in whole or in part, as a donation to the state under restrictions preventing its use for state contributions to the retirement system.

(4) All state miscellaneous members and all other categories of members whose compensation is paid from the Senate Operating Fund or the Assembly Operating Fund or the Operating Funds of the Assembly and Senate.

(b) No appropriation shall be required pursuant to this section with respect to any state member who, pursuant to Section 20281.5, is not accruing service credit during the first 24 months of service, unless and until that service credit is credited to the member.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 1215; by Stats. 1951, Ch. 1543; by Stats. 1953, Ch. 1745; by Stats. 1955, Ch. 241; by Stats. 1959, Ch. 1848; by Stats. 1970, Ch. 346; by Stats. 1990, Ch. 463, effective 7/31/90; by Stats. 1992, Ch. 707, effective 9/15/92; and by Stats. 1993, Ch. 71, effective 6/30/93; renumbered by

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Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555; by Stats. 2003, Ch. 10, effective 5/14/03; and by Stats. 2004, Ch. 214, effective 8/11/04.)

§ 20824. Quarterly Other Fund Appropriation—State Employer Contribution

(a) From each other fund in the State Treasury there is appropriated quarterly to the retirement fund the state's contribution for all members whose compensation is paid from that fund and in respect to which compensation the state's contribution is not required to be made from the General Fund.

(b) No appropriation shall be required pursuant to this section with respect to any state member who, pursuant to Section 20281.5, is not accruing service credit during the first 24 months of service, unless and until that service credit is credited to the member.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1990, Ch. 463, effective 7/31/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 214, effective 8/11/04.)

§ 20826. Transfer of State's Contribution to Fund

The board shall certify to the Controller at the end of each quarter the total amount of compensation in respect to which state contributions are payable from the General Fund and each other fund in the State Treasury, and the Controller shall transfer the state's contribution from each fund, respectively, to the retirement fund. Compensation shall be included in the certification at the end of the month in which the member's contributions based upon it are paid.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612, operative 10/1/51; by Stats. 1990, Ch. 463, effective 7/31/90; by Stats. 1991, Ch. 83, effective 6/30/91; and by Stats. 1993, Ch. 71, effective 6/30/93; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20827. Application of Employer Contributions—Local Miscellaneous Members

The contributions of the state and all employers, as defined in Section 20790, with respect to miscellaneous members shall be applied by the board during each fiscal year to collectively meet the obligations with respect to miscellaneous members under this system as follows:

(a) First, in an amount equal to the liabilities accruing (1) because of state service of members for which normal contributions have been made, (2) on account of current service pensions and disability retirement pensions, and (3) the portion of death allowance provided from state and employer contributions. The

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amount shall be determined by the most recent actuarial valuation as interpreted by the actuary.

(b) Second, in an amount equal to the payments of death benefits made from state and employer contributions during the fiscal year for deaths not qualifying for death allowances.

(c) Third, the balance of the contributions, on the liabilities accrued on account of prior service pensions.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1967, Ch. 1631; by Stats. 1971, Ch. 170, operative 7/1/71; by Stats. 1978, Ch. 1180, effective 9/26/78; and by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; renumbered by Stats. 1995, Ch. 379.)

§ 20828. Application of Employer Contributions—School Members

The contributions of all school employers with respect to school members shall be applied by the board during each fiscal year to meet the obligations of all school employers collectively with respect to school members under this system as follows:

(a) First, in an amount equal to the liabilities accruing (1) because of state service of members for which normal contributions have been made, (2) on account of current service pensions and disability retirement pensions, and (3) the portion of death allowances provided from employer contributions. The amount shall be determined by the most recent actuarial valuation as interpreted by the actuary.

(b) Second, in an amount equal to the payments of death benefits made from employer contributions during the fiscal year for deaths not qualifying for death allowances.

(c) Third, the balance of the contributions, on the liabilities accrued on account of prior service pensions.

(Added by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; renumbered by Stats. 1990, Ch. 862; and by Stats. 1995, Ch. 379.)

§ 20829. Transfer of State Funds

Any state fund out of which payments are made under this chapter may be reimbursed to the extent of the payments by transfer of a sufficient sum from other funds under the control of the same disbursing officer. The disbursing officer shall certify to the Controller the amounts to be transferred, the funds from and to which the transfer is to be made, and the Controller shall make the transfer as directed in the certificate.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20830. Continuing Obligations of State

All payments required by this chapter to be made by the state to the retirement fund, are continuing obligations of the state.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20831. Failure to Pay Employer Contributions Prohibited

Notwithstanding any other provision of law, neither the state, any school employer, nor any contracting agency shall fail or refuse to pay the employers' contribution required by this chapter or to pay the employers' contributions required by this chapter within the applicable time limitations.

(Added by Stats. 1982, Ch. 1562, operative 7/1/83; repealed and added by Stats. 1995, Ch. 379.)

§ 20831.1. Failure to Report Employee Compensation—Administrative Cost—School Employer

Any school employer that fails or refuses to report an employee's compensation earnable required by this chapter within the applicable time limitations shall be required to pay administrative costs of five hundred dollars ($500) per member as a reimbursement to this system's current year budget.

(Added by Stats. 2000, Ch. 1030.)

§ 20831.2. Failure to Withhold and Submit Employee Contributions

Any employer that fails to withhold and submit an employee's normal contributions required by this chapter within the applicable time limitations shall notify the system and shall take no action until authorized by the system.

(Added by Stats. 2009, Ch. 130.)

§ 20832. Accumulated Contributions Held for Benefit of All Members

Accumulated contributions other than contributions for prior service credited to or held as of June 21, 1971, as having been made by a contracting agency to the extent subject to Section 20506, with respect to miscellaneous members, and all contributions thereafter made by an employer pursuant to this chapter, other than contributions pursuant to Section 20806, with respect to those members shall be held for the benefit of all the members of this system who are now or hereafter credited with service rendered as employees of those employers, and for beneficiaries of this system who are now or hereafter entitled to receive benefits on account of that service.

(Added by Stats. 1967, Ch. 1631; amended by Stats. 1971, Ch. 170; by Stats. 1973, Ch. 389; by Stats. 1974, Ch. 1399; and by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; repealed and added by Stats. 1995, Ch. 379.)

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§ 20833. State Contributions Held for Benefit of State Miscellaneous Members

Contributions of the state with respect to state miscellaneous members shall be held exclusively for the benefit of state miscellaneous members, retired employees who were state miscellaneous members and beneficiaries of those members and retired employees.

(Added by Stats. 1974, Ch. 1399; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20834. Contracting Agency Ceases to be Employer—Treatment of Contributions

A contracting agency that is not an employer or that ceases to be an employer for purposes of this chapter shall thereafter make contributions as otherwise provided in Chapter 5 (commencing with Section 20460). Except as provided in Section 20578, if a contracting agency ceases to be an employer for purposes of this section, its contributions thereafter and the accumulated contributions credited to or held as having been made by the agency adjusted by addition of all contributions thereafter made by the employer and subtraction of amounts paid thereafter to or on account of employees of the contracting agency shall be held, on and after the date upon which the contracting agency ceases to be an employer, exclusively for the benefit of its employees, retired employees and beneficiaries of the employees and retired employees.

A contracting agency shall not be an employer for purposes of this section, if the board determines that the agency has no active employees eligible for coverage under this section.

(Added by Stats. 1973, Ch. 1192; amended by Stats. 1983, Ch. 639, effective 9/1/83; and by Stats. 1990, Ch. 821; repealed and added by Stats. 1995, Ch. 379.)

§ 20835. Public Agency Not an Employer

A public agency which becomes a contracting agency on or after January 1, 1977, or which amends its contract to include the benefits provided in Sections 21624 and 21626, shall not be an employer for purpose of Section 20834, and all contributions of the contracting agency shall be held exclusively for the benefit of its employees, its retired employees, and beneficiaries of those employees and retired employees.

(Added by Stats. 1976, Ch. 1115; repealed and added by Stats. 1995, Ch. 379.)

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§ 20836. Contracting Agency Ceases to be Employer—Increase in Contributions

The contribution of a contracting agency described in Section 20834 in respect to miscellaneous members is increased by a sum equal to 0.08 percent of the compensation paid to those members by the employer.

(Added by Stats. 1978, Ch. 1180, effective 9/26/78; renumbered by Stats. 1995, Ch. 379.)

§ 20837. Additional Contributions for Unused Sick Leave—School Employers

Each school employer and each contracting agency that is a school district, on account of liability for the benefits provided by Section 20963.5 shall make contributions in addition to those otherwise specified in this chapter in amounts to be fixed and determined by the board.

(Added by Stats. 1998, Ch. 1006.)

§ 20840. Risk Pools—Creation and Participation

(a) Notwithstanding Sections 20616, 20618, and 20815, the board may create, combine or eliminate risk pools for local miscellaneous members and local safety members.

(b) The board shall establish, by regulation, the criteria under which contracting agencies shall participate in a risk pool and the criteria under which contracting agencies, county offices of education, school districts, and community college districts may participate in a risk pool. The criteria shall specify that county offices of education, school districts, and community college districts may only participate in a risk pool if the retirement formula of the risk pool is higher than the retirement formula applicable to school members. In determining the criteria, the board shall consider the expected variability of the employer contribution rate due to demographic events. In no event shall contracting agencies with more than 100 active members in a member classification be required to commence participation in a risk pool for members in that member classification. For the purpose of this subdivision an active member is a member who is an employee of the contracting agency.

(c) If a contracting agency, county office of education, school district, or community college district participates in a risk pool, the assets and liabilities with respect to the affected member classification shall be combined with those of the risk pool.

(d) The board shall establish, by regulation, the circumstances under which a contracting agency may cease participation in a risk pool for a member classification.

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(e) All of the following provisions shall apply, without election by the contracting agency participating in a risk pool, to local members included in a risk pool:

(1) Sections 20965, 21022, 21026, 21037, 21536, and 21548.

(2) Provisions to elect to receive credit for public service pursuant to Article 5 (commencing with Section 21020) of Chapter 11 that require the member to make the contributions as specified in Sections 21050 and 21052.

(Added by Stats. 2002, Ch. 1133.)

§ 20841. Risk Pools—Employer Contribution Rates

(a) The employer contribution rate for a contracting agency, county office of education, school district, or community college district participating in a risk pool shall be determined by the actuary, taking into account the difference between the assets and liabilities that were brought into the risk pool with respect to the affected member classifications.

(b) The employer contribution rate for a contracting agency, county office of education, school district, or community college district participating in a risk pool may take into account the differences in the benefits provided by each employer to its members in the classification included in the risk pool.

(c) If a county office of education, school district, or community college district participates in a risk pool pursuant to this section and pays a contribution rate that differs from the rate established for school employers participating in a single account with respect to school members pursuant to subdivision (b) of Section 20225, the actual rate of employer contributions made to the Public Employees' Retirement System, for purposes of Section 42238.12 of the Education Code, shall be deemed to be the contributions that the county office of education or the district would have paid had the county office of education or the district participated in a single account for school members pursuant to subdivision (b) of Section 20225.

(Added by Stats. 2002, Ch. 1133.)

§ 20842. Risk Pools—Optional Benefits

Within six months after the effective date of any new option available to contracting agencies, the board shall (a) notify all contracting agencies participating in risk pools of the availability and approximate cost of the new option, (b) include the new option in at least one of the risk pools applicable to each member category to which the new option may apply, and (c) notify the contracting agencies of their options if they are participating in a risk pool to which the new option is added and choose not to offer the new option to their employees.

(Added by Stats. 2002, Ch. 1133.)

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Chapter 10. Payment of Federal Contributions

SECTION
§ 20860. Repealed
§ 20861. Repealed
§ 20862. Repealed
SECTION
§ 20863. Repealed
§ 20864. Repealed

§ 20860. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 20861. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 20862. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 20863. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 20864. Repealed

(Repealed by Stats. 2003, Ch. 519.)

Chapter 11. Service Credit

Article 1

General Provisions

SECTION

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ARTICLE 1. GENERAL PROVISIONS

§ 20890. Conversion of Service—Local Miscellaneous to Local Safety

Past local miscellaneous service shall be converted to local safety service if the past service:

(a) Was rendered by a current employee of the same agency for which the miscellaneous service was performed; and

(b) Was rendered in a position that has subsequently been reclassified as a local safety position; and

(c) Is credited to an employee who has other local safety service credit for service performed with the agency.

(Added by Stats. 1979, Ch. 240; repealed and added by Stats. 1995, Ch. 379.)

§ 20890.1. Conversion of Service—County Peace Officer to Local Sheriff

Past county peace officer service shall be converted to local sheriff service if all of the following apply to the past service:

(a) It was rendered in a position that has subsequently been reclassified as a local sheriff position according to the provisions of Section 20432, 20432.5, or 20432.6.

(b) It was rendered by a current employee of the same agency for which the county peace officer service was performed.

(c) It is credited to an employee who has other local sheriff service credit for service performed with the agency.

(Added by Stats. 2001, Ch. 793; amended by Stats. 2002, Ch. 114, effective 7/5/02; and by Stats. 2006, Ch. 118.)

§ 20890.2. Conversion of Service—Cadet to Patrol

(a) Past miscellaneous service performed as an employee of the Department of the California Highway Patrol while a student at the department's training school established pursuant to Section 2262 of the Vehicle Code shall be converted to patrol member service if all of the following apply:

(1) The service was rendered by a current employee of the Department of the California Highway Patrol.

(2) The service is credited to an employee who has patrol member service credit for service performed with the Department of the

California Highway Patrol.

(3) The member failed to file a written election to retain the service as miscellaneous service within 90 days of notification by the board.

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(b) The Department of the California Highway Patrol shall notify the board, in the manner established by the board, of any employee who is eligible for conversion of service pursuant to this section.

(Added by Stats. 2002, Ch. 902; amended by Stats. 2003, Ch. 519.)

§ 20891. Applicability of Certain Sections to Second Tier Members

Section 20066 and subdivisions (a) and (b) of Section 20068 shall not apply to a state miscellaneous or state industrial member subject to Section 21076, 21076.5, or 21077 who becomes a patrol member, a state safety member, or a state peace officer/firefighter member as a result of an amendment to this part defining those members, or is reclassified as a state peace officer/firefighter member pursuant to Section 20395 or 20398, unless the member elects to: (a) deposit in the retirement fund an amount equal to any accumulated contributions that he or she withdrew pursuant to Section 20737, plus an amount equal to the interest which would have been credited to his or her account, to the date of completion of payments, had those contributions not been withdrawn; and (b) deposit in the retirement fund the amount that he or she would have contributed had he or she not been subject to subdivision (c) of Section 20677, plus an amount equal to the interest, to the date of completion of payments, which would have been credited to those contributions had he or she been subject to subdivision (a) or (b) of Section 20677.

(Added by Stats. 1986, Ch. 199, effective 6/27/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2013, Ch. 526.)

§ 20892. Service in Two or More School Districts

Service by a member in two or more school districts having governing boards composed of the same persons, shall be considered as though the service were rendered in one school district.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379.)

§ 20893. Concurrent Employment

If a person is employed concurrently by more than one contracting agency or the state and one or more contracting agencies, his or her status under this system is the same as if he or she were employed in more than one state agency.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20894. Credit for Same Service in Two Retirement Systems Prohibited

(a) 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.

(b) Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan

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established pursuant to Chapter 4 (commencing with Section 19993) or Chapter 8.6 (commencing with Section 19999.3) of Part 2.6 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, a tax-deferred retirement plan that meets the requirements of Section 40l(k) of Title 26 of the United States Code, or a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(c) Nothing in this section shall preclude concurrent participation and credit for service in the defined benefit plan provided under this part 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 part has been designated as the employer's primary plan for the person.

(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 and, upon request, to the board.

(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 part.

(d) For purposes of this section only, a person who elects to purchase service as described in Section 21029.5 for his or her service with the California National Guard is deemed not to receive credit for the same service in two retirement systems supported wholly or in part by public funds.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1972, Ch. 1370; by Stats. 1985, Ch. 1497, effective 10/2/85; and by Stats. 1986, Ch. 1411, effective 9/30/86; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 474; by Stats. 2004, Ch. 214, effective 8/11/04; and by Stats. 2007, Ch. 355.)

§ 20895. Applicability of Provisions to University Retirement System Members

The provisions of this part extending rights to a member of this system, or subjecting him or her to any limitation, by reason of his or her membership in a county retirement system, shall apply in like manner and under like conditions to a member of this system by reason of his or her membership in any retirement system maintained by the university, provided that the member entered this system on or after October 1, 1963, and within 90 days of discontinuance of employment as a member of a retirement system maintained by the university, or he or she entered into employment as a member of any system maintained by the university on or after October 1, 1963, and within 90 days of discontinuance of employment as a member of this system; provided, further, that this section shall have no

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application whatsoever until the Regents of the University of California agree to provide similar benefits under any university system under like conditions.

This section shall supersede any provision contained in Section 20037 that is in conflict with this section, with respect to any person who enters university employment or employment in which he or she is a member of this system, on or after October 1, 1963.

(Added by Stats. 1963, Ch. 768; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20896. Military Retirement Pay

A member who is receiving military retirement pay based on 20 or more years of active duty with the armed forces shall be deemed to have received credit in a publicly supported retirement system for all service performed with the armed forces. Credit toward military retirement pay that is earned by a combination of active duty and nonactive duty with a reserve component of the armed forces and where the retirement pay is payable only upon the attainment of a specified age shall not be deemed credit in a publicly supported retirement system.

(Added by Stats. 1979, Ch. 240; repealed and added by Stats. 1995, Ch. 379.)

§ 20897. Military Disability Retirement Pay

A member who is receiving disability retirement pay that is paid by one of the armed forces shall be deemed to be receiving military retirement pay based on active duty, regardless of the number of years of active duty served. A member who is receiving disability compensation from the Veterans' Administration and is not receiving retirement pay from one of the armed forces shall not be considered to be receiving military retirement pay.

(Added by Stats. 1979, Ch. 240; repealed and added by Stats. 1995, Ch. 379.)

§ 20898. Credit for Compensated Absences from Work

In computing the service with which a member is entitled to be credited under this part, time during which the member is excused from working because of holidays, sick leave, vacation, or leave of absence, with compensation, shall be included.

(Added by Stats. 1953, Ch. 876; repealed and added by Stats. 1995, Ch. 379.)

§ 20899. Elective Officer

In computing the amount of service to be credited to a member who is entitled to credit under this part for service as an elective officer, a year of service shall be credited for each year of tenure in the office. A person serving in the office shall

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be deemed to be serving on a full-time rather than a part-time basis for all purposes of this part.

(Added by Stats. 1959, Ch. 1484; repealed and added by Stats. 1995, Ch. 379.)

§ 20899.5. Elective Officers—No Credit for Service not Performed

(a) An elective officer of a contracting agency that is a city, county, or city and county shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5, 34095, or 50033.

(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 20909.

(Added by Stats. 2006, Ch. 355.)

§ 20900. Reduced Workload Program—CSU Faculty or Certificated School Employee

Notwithstanding any other provision of this part, a member employed on a part-time basis on and after January 1, 1976, shall, for the period of part-time employment, receive the credit the member would receive if he or she was employed on a full-time basis and have his or her retirement allowance, as well as any other benefits the member is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis, if the member and his or her employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of an employee's workload under this section, the district personnel responsible for the administration of this program, in conjunction with the administrative staff of the State Teachers' Retirement System and this system, shall verify the eligibility of the applicant for the reduced workload program. This section shall be applicable only to members who are academic employees of the California State University or who are certificated employees of school districts and who have met the criteria provided in Sections 44922 and 87483 of the Education Code or Section 89516 of the Education Code and are not older than 70 years and is limited to a period of five years of part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

(Added by Stats. 1974, Ch. 1367; amended by Stats. 1975, Ch. 607 and Ch. 678; by Stats. 1976, Ch. 1079 and Ch. 1115; by Stats. 1978, Ch. 1180, effective 9/26/78; by Stats. 1981, Ch. 1023; and by Stats. 1983, Ch. 143; repealed and added by Stats. 1995, Ch. 379.)

§ 20901. Additional Service Credit (Golden Handshake)—State Employee

(a) Notwithstanding any other provisions of this part, if the Governor, by executive order, determines that because of an impending curtailment of, or

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change in the manner of, performing service, the best interests of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to state members, other than school members, if the following conditions exist:

(1) The member meets the service requirements of Section 21060 or 21074 and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order which shall specify the period. For purposes of this paragraph, the service requirements of Sections 21060 and 21074 shall not include service as a National Guard member or service purchased pursuant to Section 21029.5.

(2) The appointing power, as defined in Section 18524, or the Regents of the University of California or the Trustees of the California State University, transmits to the retirement fund an amount determined by the board 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 the member 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 employer and the board.

(3) The appointing power or the regents or the trustees determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the Department of Finance and to the Legislative Analyst's Office, as to the specific economies that will be realized were the additional service credit towards retirement granted.

(b) As used in this section, "member" means a state employee who is employed in a job classification, department, or other organizational unit designated by the appointing power, as defined in Section 18524, the Regents of the University of California, or the Trustees of the California State University.

(c) The amount of service credit shall be two years regardless of credited service, but 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. The appointing power or the regents or the trustees shall make the payment with respect to all eligible employees who retired pursuant to this section.

(d) Any member who qualifies under this section, upon subsequent reentry to this system shall forfeit the service credit acquired under this section.

(e) This section shall not apply to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

(f) (1) The benefit provided by this section shall not be applicable to the employees of any appointing power or the regents or the trustees until the Director

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of Finance approves the transmittal of funds by that appointing power or the regents or the trustees to the retirement fund pursuant to paragraph (3) of subdivision (a).

(2) The Director of Finance shall approve the transmittal of funds by the appointing power or the regents or the trustees not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy thereof shall be immediately transmitted to the chairperson of each appropriate policy committee.

(Added by Stats. 1975, Ch. 1167, effective 9/29/75; amended by Stats. 1978, Ch. 440; by Stats. 1982, Ch. 680, effective 8/30/82; by Stats. 1983, Ch. 1258, effective 9/30/83; by Stats. 1986, Ch. 297; and by Stats. 1989, Ch. 1143; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2007, Ch. 355.)

§ 20902. Additional Service Credit (Golden Handshake)—Legislative Employee

Notwithstanding any other provisions of this part, whenever the employer, by formal action, determines that because of an impending curtailment of, or change in the manner of, performing service, the best interests of the state would be served by encouraging the retirement of legislative employees, and that sufficient economies could be realized to offset any cost to the employer resulting from this section, an additional two years of service shall be credited to legislative employees who are members, pursuant to Section 20324, if the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the operative date of the formal action of the employer that shall specify the period.

(b) The employer transmits to the retirement fund an amount determined by the board 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 the member 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 employer and the board.

The amount of service credit shall be two years regardless of credited service.

Any member who qualifies under this section, upon subsequent reentry to this system shall forfeit the service credit acquired under this section.

This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment

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with an employer subject to this part during a period extending one year beyond the operative date of the formal action of the employer or if the member is not eligible to retire without the additional credit available under this section.

As used in this section, "employer" means the Joint Rules Committee, the Joint Legislative Budget Committee, the Joint Legislative Audit Committee, the Senate Committee on Rules, and the Assembly Rules Committee, with respect to their respective employees.

(Added by Stats. 1984, Ch. 268, effective 7/1/84; repealed and added by Stats. 1995, Ch. 379.)

§ 20902.5. Additional Service Credit (Golden Handshake)—Judicial Employees

(a) Notwithstanding any other provision of this part, whenever the Chief Justice, by formal action, determines that because of an impending curtailment of, or change in the manner of performing, judicial branch services, the best interests of the state would be served by encouraging the retirement of judicial branch state employees from the Administrative Office of the Courts, the Supreme Court, the Courts of Appeal, or the Habeas Corpus Resource Center and that sufficient economies could be realized to offset any costs to the judicial branch resulting from this action, an additional two years of service shall be credited to the affected members, if both of the following conditions exist:

(1) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the operative date of the formal action of the Chief Justice that shall specify the period.

(2) The Administrative Office of the Courts transmits to the retirement fund an amount determined by the board 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 the member 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 employer and the board with respect to all eligible members who retire during the specified period.

(b) As used in this section, "member" means a state employee who is employed in an organizational unit of the judicial branch designated by the Chief Justice in the formal action crediting the additional service credit.

(c) The amount of service credit shall be two years regardless of credited service. Any member who qualifies under this section shall, upon subsequent reentry to this system, forfeit the service credit acquired under this section.

(d) This section is not applicable to any member otherwise eligible, if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the operative

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date of the formal action of the Chief Justice or if the member is not eligible to retire without the additional credit available under this section.

(Added by Stats. 2002, Ch. 1008; amended by Stats. 2003, Ch. 62.)

§ 20903. Additional Service Credit (Golden Handshake)—Local Member

Notwithstanding any other provisions of this part, when the governing body of a contracting agency determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency would be served, a local member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification, department, or other organizational unit designated by the governing body of the contracting agency and retires within any period designated in and subsequent to the effective date of the contract amendment, or any additional period or periods designated in any subsequently adopted resolution of the governing body of the contracting agency, provided the period is not less than 90 days nor more than 180 days.

(b) The governing body agrees that the added cost to the retirement fund for all eligible employees who retire during the specified period shall be included in the contracting agency's employer contribution rate, as determined by Section 20814.

(c) The governing body shall certify that it is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs that constitute at least 1 percent of the job classification, department, or organizational unit as designated by the governing board, resulting from the curtailment of, or change in the manner of performing, its services.

(d) The governing body shall certify that it is its intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that any vacancies thus created or at least one vacancy in any position in any department or other organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the workforce of the department or organizational unit.

(e) The amount of additional service credit shall be two years regardless of credited service.

(f) This section is not applicable to any member otherwise eligible if the member receives any unemployment insurance payments during the specified period.

(g) Any member who qualifies under this section, upon subsequent reentry to this system shall forfeit the service credit acquired under this section.

(h) This section does not apply to any member who is not employed by the contracting agency during the period designated in subdivision (a) and who has less than five years of service credit.

(i) This section does not apply to any contracting agency unless and until the agency elects to be subject to the provision of this section by amendment to its

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contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after January 1, 2000, by express provision in the contract making the contracting agency subject to the provisions of this section.

Before adopting this provision, the governing body of a contracting agency shall, with timely public notice, place the consideration of this section on the agenda of a public meeting of the governing body, at which time disclosure shall be made of the additional employer contributions, and the funding therefor, and members of the public shall be given the opportunity to be heard. The matter may not be placed on the agenda as a consent item. Only after the public meeting may the governing body adopt this section. The governing body shall also comply with the requirements of Section 7507. The employer shall notify the board of the employer's compliance with this subdivision at the time of the governing body's application to adopt this section.

(j) The contracts of contracting agencies that adopted the provisions of former Section 20903, prior to the repeal of that section on January 1, 1999, shall remain in full force and effect in accordance with their terms and the terms of this section. Notwithstanding subdivision (i), those contracting agencies need not amend their contracts or otherwise comply with the requirements of subdivision (i) to be subject to this section. Without limiting the foregoing, eligibility periods under subdivision (a) of former Section 20903, designated by the governing body of a contracting agency by resolution pursuant to the terms of its contract or contract amendment, shall remain in effect in accordance with their terms as if designated pursuant to this section.

(k) Notwithstanding Section 20790, an election to become subject to this section may not exclude an agency from the definition of "employer" for purposes of Section 20790.

(Former section repealed by its own provisions, effective 1/1/99; added by Stats. 1999, Ch. 684; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 20903.5. Additional Service Credit (Golden Handshake) Prior to July 1999—Local Member

(a) Notwithstanding Section 20903 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 governing body of a contracting agency, other than a school employer, determines that because of an impending curtailment of service, or change in the manner of performing service, the best interests of the agency would be served by encouraging the retirement of local members, the governing body may adopt a resolution to grant eligible employees additional service credit if the following conditions exist:

(1) The member meets the age and service requirements of Section 21060, is credited with 10 or more years of service, and retires on service retirement on or

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before a date determined by the governing body that is within a period that is not more than 120 days after the governing body's adoption of the resolution.

(2) The governing body agrees to transmit to the retirement fund an amount determined by the board 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 the member would have received without that service credit and any administrative costs incurred by this system in a manner and time period acceptable to the governing body and the board. However, the payment period shall not exceed five years. If payment in full is not received within 30 days of the invoice, regular interest shall be charged on any unpaid balance.

(b) (1) The resolution shall specify the categories of employees that are eligible to receive the additional service credit and the departments, programs and position classifications in which employee members would be eligible for the additional service credit.

(2) The resolution shall specify the period of eligibility, and the amount of additional service in whole years. The amount of additional service credit shall not be more than four years and shall not be combined with any additional service credit granted under Section 20903.

(c) (1) The governing body shall certify either that sufficient positions have been deleted whose total cost equals or exceeds the lump-sum actuarial cost of the additional service credit granted or 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.

(2) The governing body shall certify to the board the extent to which savings will exceed necessary payments to the board, the specific measures to be taken to assure that outcome, and that the agency has complied with Section 7507. The board may require the governing body to provide verification of its certification through independent review.

(d) At the time the governing body has achieved savings that are more than adequate to meet necessary payments to the board, or five years after commencement of the retirement period specified in paragraph (1) of subdivision (a), whichever occurs first, the governing body shall certify to the board the amount of actual savings and the measures taken to achieve the savings. The governing body shall maintain records for each worker retiring pursuant to this section. The board may require the governing body to provide verification of its certification through independent review. The board shall report these certifications to the Controller, who shall summarize the cost and savings information therein for inclusion 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

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service granted pursuant to this section. The local contracting agency shall pay the cost of the postaudit.

(e) This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending two years beyond the date of issuance of the governing body's determination or if the member is not eligible to retire without the additional credit available under this section.

(f) Any member who qualifies under this section, upon subsequent reentry into this system or upon any subsequent service under contract or any other basis, shall forfeit the service credit acquired under this section. Any member who qualifies under this section shall not receive temporary reemployment as an annuitant with the public agency from which he or she has received credit under this section for five years following the date of retirement.

(g) No additional service credit shall be granted pursuant to this section on or after July 1, 1999.

(Added by Stats. 1994, Ch. 540; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 458, effective 9/24/97.)

§ 20904. Additional Service Credit (Golden Handshake)—School Member

Notwithstanding any other provisions of this part, when any county superintendent of schools determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the county superintendent of schools would be served, a school member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification or an organizational unit designated by the county superintendent of schools and retires within any period designated in and subsequent to the effective date of the contract amendment provided the period is not less than 90 days nor more than 180 days.

(b) The county superintendent of schools transmits to the retirement fund an amount determined by the board 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 the service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The county superintendent of schools shall certify that it is his or her intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that the retirements will either: (1) result in a net savings to the district or county superintendent of schools, or (2) result in an overall reduction in the work force of the organizational unit because of impending mandatory transfers, demotions, and layoffs that constitute at least 1 percent of the job classification, as designated by

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the county superintendent of schools, resulting from the curtailment of, or change in the manner of performing, its services.

The amount of service credit shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of his or her retirement and the date he or she would be required to be retired because of age.

A county superintendent of schools that elects to make the payment prescribed by subdivision (b) shall make the payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to this system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the county superintendent of schools during the period designated in subdivision (a) and who has less than five years of service credit.

This section shall not apply to any county superintendent of schools unless and until the county superintendent of schools elects to be subject to this section by amendment to the contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after July 30, 1982, by express provision in the contract making the county superintendent of schools subject to the provisions of this section.

Notwithstanding Section 20790, an election to become subject to this section shall not exclude a county superintendent of schools from the definition of "employer" for purposes of Section 20790.

(Added by Stats. 1982, Ch. 327, effective 6/30/82; amended by Stats. 1987, Ch. 542; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1992, Ch. 792; renumbered by Stats. 1995, Ch. 379.)

§ 20905. Reduced Workload Program—Classified School Employee

(a) Notwithstanding any other provision of this part, a school member employed on a part-time basis on and after January 1, 1991, shall, for that period of part-time employment, receive the credit he or she would receive if he or she was employed on a full-time basis and shall have his or her retirement allowance, as well as any other benefits he or she is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis if he or she and his or her employer both contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of a classified employee's workload under this section, the school employer personnel responsible for the administration of this program shall verify the eligibility of the applicant for the reduced workload program. This

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section shall be applicable only to school members who are classified employees of school employers or community college districts and who have met the criteria provided in Sections 45139 and 88038 of the Education Code.

(b) The employer shall maintain the necessary records to separately identify each classified employee receiving credit pursuant to this section.

(c) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in combination, offer the actuary's best estimate of anticipated experience under this system.

(Added by Stats. 1990, Ch. 658, effective 9/12/90; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379.)

§ 20906. Leave for Service as Elected Officer of Employee Organization—School Member

(a) Notwithstanding any other provision of this part, a school member who is on an approved leave of absence to serve as an elected officer of an employee organization pursuant to Section 45210 or 88210 of the Education Code, shall receive the service credit he or she would have received if he or she were not on leave, and shall have benefits he or she is entitled to under this part, based upon the salary that he or she would receive if he or she were not on leave. Both the member and his or her employer shall contribute to the retirement fund the amount that would have been contributed had the member not been on leave.

(b) The school employer shall verify the eligibility of the applicant for the elected officer's leave of absence. Service credited pursuant to this section shall not exceed 12 years.

(c) The employer shall maintain the necessary records to separately identify each employee receiving service credit pursuant to this section.

(Added by Stats. 1987, Ch. 623; amended by Stats. 1988, Ch. 688; renumbered by Stats. 1995, Ch. 379.)

§ 20907. Five Years for Payment for Additional Service Credit

Any funds transferred to this system on account of liability for additional service credit granted pursuant to Sections 20901, 20902, 20904, or former Section 20822, as added by Chapter 450 of the Statutes of 1992, shall be paid over a time period acceptable to the employer and the board, but in no case shall that period exceed five years.

(Added by Stats. 1992, Ch. 448, effective 8/6/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 519.)

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§ 20908. Delayed Accrual—Subsequent Crediting

(a) A member who, pursuant to Section 20281.5, did not accrue service credit with respect to his or her service to the state may elect to receive credit for that service within the period of time beginning on the first day of the 47th month and ending on the last day of the 49th month after the date on which the member became a member of the system.

(b) Any member electing to receive credit for service under this section shall cause to be transferred to the system the accumulated contributions, including earnings, standing to the member's credit in the retirement program established pursuant to Chapter 8.6 (commencing with Section 19999.3) of Part 2.6. Upon transfer of the accumulated contributions, including earnings, the member shall receive credit for all service that, pursuant to Section 20281.5, was not credited.

(c) A member who does not make the election within the period specified in subdivision (a), may elect at any time prior to retirement to receive credit for the service that otherwise would have been credited if the member was not subject to Section 20281.5, by making the contributions specified in Sections 21050 and 21052.

(Former section repealed by Stats. 2003, Ch. 10, effective 5/14/03. Added by Stats. 2004, Ch. 214, effective 8/11/04; amended by Stats. 2005, Ch. 328.)

§ 20909. Additional Service Credit—All Members

(a) A member who has at least five years of credited state service, may elect, by written notice filed with the board, to make contributions pursuant to this section and receive not less than one year, nor more than five years, in one-year increments, of additional retirement service credit in the retirement system.

(b) A member may elect to receive this additional retirement service credit at any time prior to retirement by making the contributions as specified in Sections 21050 and 21052. A member may not elect additional retirement service credit under this section more than once.

(c) For purposes of this section, "additional retirement service credit" means time that does not qualify as public service, military service, leave of absence, or any other time recognized for service credit by the retirement system.

(d) Additional retirement service credit elected pursuant to this section may not be counted to meet the minimum qualifications for service or disability retirement or for health care benefits, or any other benefits based upon years of service credited to the member.

(e) This section only applies to the following members:

(1) A member while he or she is employed in state service at the time of the additional retirement service credit election.

(2) A member of the system defined in Section 20324.

(f) For purposes of this section, "state service" means service as defined in Section 20069.

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(g) This section shall apply only to an application to purchase additional retirement credit that was received by the system prior to January 1, 2013, that is subsequently approved by the system.

(Added by Stats. 2003, Ch. 838; amended by Stats. 2013, Ch. 526.)

§ 20910. Member Right to Receive Service Credit upon Nonmember Refund—Section 21290

A member whose right to elect to receive service credit pursuant to Article 4 (commencing with Section 20990) and Article 5 (commencing with Section 21020) has been awarded in part to a nonmember, pursuant to paragraph (4) of subdivision (c) of Section 21290, may elect to receive service credit for the same amount and type of service credit that the nonmember is entitled to purchase, if the nonmember has permanently waived all rights in the system by effecting a refund of accumulated contributions pursuant to Section 21292. A member electing to receive service credit pursuant to this section shall make the contributions required under this chapter for the particular amount and type of service credit.

(Added by Stats. 2003, Ch. 855.)

ARTICLE 2. PRIOR SERVICE CREDIT

§ 20930. University Member

Credit for prior service shall be granted to each member who was employed by the university at the time of becoming a member.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 20931. State Member

Credit for prior service shall be granted to each member who was employed by the state, but not by the university, at the time of becoming a member. Credit for prior service shall be granted to each state member who, on or before the effective date of his or her retirement under this system becomes entitled to be credited with five years or more of current service rendered as a state member.

The status under this system of each state member who qualifies for credit for prior service under this section shall be adjusted to what it would have been if the prior service had been credited to the member at the date he or she became a member of this system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 1220, by Stats. 1955, Ch. 1705, and by Stats. 1961, Ch. 1287; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

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§ 20932. State Member—Part-Time

Credit for prior service shall also be granted to each state member who became a member while employed on a part-time basis, as a result of amendments of the laws governing this system, or who became a member prior to those amendments, because of a change in status to a full-time basis.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20933. Local Member on Effective Date of Agency Contract

Credit for prior service shall be granted to each person who was employed by a contracting agency at the time of becoming a member and who became a member on the effective date of the agency's contract or within three years after last rendering prior service.

(Amended by Stats. 1959, Ch. 779, operative 10/1/59; repealed and added by Stats. 1995, Ch. 379.)

§ 20934. Local Member

Credit for prior service rendered as an employee of a contracting agency shall be granted to each local member at the date the local member becomes a member of this system.

This section shall apply to all local members who are in active state service on or after January 1, 1977, and notwithstanding any other provision in this article shall operate prospectively.

(Added by Stats. 1951, Ch. 1220; amended by Stats. 1955, Ch. 1705; by Stats. 1970, Ch. 457, operative 12/1/70; by Stats. 1977, Ch. 192, effective 6/30/77, operative 1/1/78; and by Stats. 1988, Ch. 331, effective 7/14/88; repealed and added by Stats. 1995, Ch. 379.)

§ 20936. Credit for Service with Agency or Function Assumed by Other Agency—Local Member

Credit for prior service shall be granted to each local member who rendered service to a public agency if that agency or a function of that agency is assumed by a contracting agency or a public agency that thereafter becomes a contracting agency.

The future annual costs incurred pursuant to this section shall be determined in the manner prescribed for actuarial investigations and valuations in Article 1 (commencing with Section 20460) of Chapter 5 and shall be made public at a public meeting at least two weeks prior to the election by a public agency to be subject to this section.

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This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(Added by Stats. 1982, Ch. 1220, effective 9/22/82; renumbered by Stats. 1995, Ch. 379.)

§ 20937. Prior Service Credit and Benefits—Local Member

The credit for prior service to be granted local members and the benefits pertaining thereto, shall be established by contract between the board and the governing body of the agency. Benefits on account of each year of credited prior service shall be in the form of a percentage of either of the following:

(a) The final compensation of local safety members.

(b) The final compensation of a local miscellaneous member who retires after December 1, 1969, whether or not the contracting agency has elected to be subject to the provisions of this subdivision.

The percentages shall not exceed the analogous percentages applicable to the members' current service, and shall be uniform for all local safety members, according to age at entry into the service of the contracting agency, if the member is entitled to credit for prior service, or age at entry into this system, if the member is not so entitled, and uniform for all local miscellaneous members regardless of age at entry.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1955, Ch. 1666; by Stats. 1969, Ch. 751, operative 12/1/69; and by Stats. 1980, Ch. 481; renumbered by Stats. 1995, Ch. 379.)

§ 20938. Prior Service Limited to Persons Employed on Contract Date

Notwithstanding any other provision of this part, credit for prior service shall be granted only to each person who was employed by a contracting agency on the effective date of the agency's contract or amendment to the contract under which that prior service is granted.

This section shall not apply to a contracting agency nor to the employees of a contracting agency, unless the agency elects to be subject to this section by express provision in the contract making the contracting agency subject to this section.

(Added by Stats. 1981, Ch. 374; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118.)

ARTICLE 3. COMPUTATION OF SERVICE CREDIT

§ 20960. Uncompensated Absence from State Service Excluded

Except as provided in Article 4 (commencing with Section 20990), time during which a member is absent from state service without compensation shall not be allowed in computing service.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1969, Ch. 1226, operative 12/1/69; and by Stats. 1989, Ch. 1143; repealed and added by Stats. 1995, Ch. 379.)

§ 20961. Service in Fiscal Year

Credit for more than one year of service shall not be allowed for service rendered in any fiscal year.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 20962. Full-time Service—Basis of Employment

(a) One year of service credit shall be granted for service rendered and compensated in a fiscal year in full-time employment for any of the following:

(1) One academic year of service for persons employed on an academic year basis by the University of California, the California State University system, or school employees who are certificated members, under terms and conditions prescribed by the board.

(2) Ten months of service for persons employed on a monthly basis.

(3) Two hundred fifteen days of service after June 30, 1951, and 250 days prior to July 1, 1951, for persons employed on a daily basis.

(4) One thousand seven hundred twenty hours of service after June 30, 1951, and 2,000 hours prior to July 1, 1951, for persons employed on an hourly basis.

(5) Nine months of service for state employees represented by State Bargaining Unit 3 and subject to the 9-12 pay plan or leave plan, provided a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this subdivision.

(b) A fractional year of credit shall be given for service rendered in a fiscal year in full-time employment for less than the time prescribed in this section.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612; repealed and added by Stats. 1974, Ch. 666; amended by Stats. 1981, Ch. 737; by Stats. 1985, Ch. 176, effective 7/8/85; by Stats. 1986, Ch. 637; and by Stats. 1992, Ch. 1372; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1030; and by Stats. 2009, Ch. 130.)

§ 20963. Unused Sick Leave—State or School Member

(a) A state, school, or school safety member, whose effective date of retirement is within four months of separation from employment with the employer subject to

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this section that granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found. For purposes of this subdivision, sick leave shall not include sick leave earned as a National Guard member as described in Section 20380.5.

(b) Until receipt of certification from an employer concerning unused sick leave, the board may pay an estimated allowance pursuant to this section. At the time of receipt of the certification, the allowance shall be adjusted to reflect any necessary changes.

(c) Notwithstanding any other provisions of this part, this section shall not apply to local members other than local miscellaneous members employed before July 1, 1980, by a school district that is a contracting agency or those school safety members employed before July 1, 1980, by a contracting agency that is a school district or community college district, as defined in subdivision (i) of Section 20057.

(d) This section shall not apply to any of the following:

(1) A person who becomes a school member on and after July 1, 1980, and any person who becomes a local member employed, on and after July 1, 1980, by a school district that is a contracting agency whether or not the person was ever a school member or local member prior to that date.

(2) A state employee, with respect to sick leave credits earned as a state member under Section 21353.5, except that the member shall be entitled to receive credit under this section for the sick leave he or she has earned as a state member subject to any other retirement formula, provided the member has a sick leave credit balance remaining at the time of retirement.

(e) For the purposes of this section, sick leave benefits provided to state employees pursuant to the state sick leave system shall be construed to mean compensation paid to employees on approved leaves of absence because of sickness.

(Added by Stats. 1973, Ch. 1141; amended by Stats. 1974, Ch. 1398; by Stats. 1975, Ch. 50, effective 5/3/75; by Stats. 1979, Ch. 1201 and Ch. 1202; by Stats. 1980, Ch. 5, effective 2/4/80; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1993, Ch. 1297, operative 7/1/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and Stats. 1998, Ch. 88, effective 6/30/98, and Ch. 91, effective 7/3/98; and by Stats. 2007, Ch. 355.)

§ 20963.1. Unused Educational Leave—State Member

(a) A state member whose effective date of retirement is within four months of separation from employment of the state, shall be credited at his or her retirement with 0.004 year of service for each unused day of educational leave credit, as certified to the board by the employer. The provisions of this section shall be effective for eligible state members who retire directly from state employment on and after January 1, 2000.

(b) This section shall apply to eligible state members in state bargaining units that have agreed to this section in a memorandum of understanding, or as authorized by the Director of Human Resources for classifications of state employees that are excluded from the definition of "state employee" by paragraph (c) of Section 3513 of the Government Code.

(Added by Stats. 1999, Ch. 770, effective 10/10/99; amended by Stats. 2012, Ch. 665.)

§ 20963.5. Exclusion from Credit for Unused Sick Leave—Specified School Safety Members

(a) Notwithstanding any other provision of law, Section 20963 shall not apply to school safety members who were employed on or after July 1, 1980, and who retired prior to January 1, 1999.

(b) Notwithstanding any other provision of law, Section 20963 shall apply to school members who retire on or after January 1, 1999.

(Added by Stats. 1998, Ch. 1006.)

§ 20964. Unused Sick Leave—Department of Forestry and Fire Protection

Notwithstanding any other provision of law, any employee who voluntarily resigns from state service during the period January 1, 1980, through June 30, 1980, shall be credited at retirement with additional service credit pursuant to Section 20963 for sick leave accumulated while employed by the state and assumed and maintained by the county pursuant to the agreement with the Department of Forestry and Fire Protection, and certified as unused to the board by the county. County employees having accumulated sick leave credits for both state and county service shall be deemed to draw from county earned sick leave balances existing at the time sick leave is taken prior to the drawing from state earned balances.

This section applies only to probationary and permanent employees of the Department of Forestry and Fire Protection assigned to the Orange Ranger Unit who, before the June 30, 1980, cancellation of the local government fire protection contract between the department and the County of Orange, voluntarily resign from state service and accept similar employment by Orange County in a fire protection organization.

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(Added by Stats. 1980, Ch. 282, effective 6/30/80; amended by Stats. 1992, Ch. 427; repealed and added by Stats. 1995, Ch. 379.)

§ 20965. Unused Sick Leave—Local Members

A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer which granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his or her employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after September 26, 1974, by express provision in the contract making the contracting agency subject to this section.

This section shall only apply to members who retire after the effective date of the contract amendments.

(Added by Stats. 1974, Ch. 1320, effective 9/26/74; amended by Stats. 1981, Ch. 609; by Stats. 1982, Ch. 432; and by Stats. 1993, Ch. 1297, operative 7/1/94; repealed and added by Stats. 1995, Ch. 379.)

§ 20966. Part-time Service—Ratio Formula—Basis of Employment

For the purpose of calculating retirement allowances, credit for service rendered on a part-time basis in each fiscal year shall be based on the ratio that the service rendered bears:

(a) To one academic year if rendered on an academic year basis, for members employed by the University of California, the California State University system, or school employees who are certificated members, under terms and conditions prescribed by the board.

(b) To 10 months if rendered on a monthly basis.

(c) To 215 days if the service was rendered after June 30, 1951, or to 250 days if the service was rendered prior to July 1, 1951, for services rendered on a daily basis.

(d) To 1,720 hours if the service was rendered after June 30, 1951, or to 2,000 hours if the service was rendered prior to July 1, 1951, for service rendered on an hourly basis.

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(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612; by Stats. 1974, Ch. 666; by Stats. 1981, Ch. 737; and by Stats. 1986, Ch. 637; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1030.)

§ 20966.5. California National Guard Member

For purposes of Sections 20326 and 21029.5, each day of compensated service with the California National Guard or service by a National Guard member authorized by Title 10 of the United State Code shall count as one day of service and shall be credited in each fiscal year based on the ratio that service bears to 215 days.

(Added by Stats. 2007, Ch. 355.)

§ 20967. Compensation Earnable for Part-time Service

For the purpose of calculating retirement benefits based on part-time service, except under Section 21381, compensation earnable shall be taken as the compensation that would have been earnable if the employment had been on a full-time basis and the member had worked full time, and shall conform to the definitions given in Section 20636.1 for school members and Section 20636 for all other members.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1955, Ch. 1704; and by Stats. 1982, Ch. 432; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130.)

§ 20968. Personal Leave Program—State Employees

For all retirement purposes including benefit eligibility and calculations of retirement allowances for state employees in the personal leave program, credit for service shall be based on the amount of service that would have been credited had the employee not been in the personal leave program.

(Added by Stats. 1992, Ch. 103, effective 6/30/92; renumbered by Stats. 1995, Ch. 379.)

§ 20969. Mandatory Employee Furloughs—State Employees

(a) For all retirement purposes, including benefit eligibility and calculations of retirement allowances for members employed by the state that are subject to mandatory furloughs, credit for service and compensation earnable shall be based on the amount that would have been credited had the employee not been subject to mandatory furloughs.

(b) For the purposes of this section, "mandatory furloughs" means time during which a member is directed to be absent from work without pay, pursuant to Section 19849, or during which a member identified below is directed to be absent from work without pay as a consequence of an Executive order in the 2008-09, 2009-10, and 2010-11 fiscal years:

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(1) A state employee subject to an Executive order requiring a mandatory furlough for state employees.

(2) A person who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or who is an officer or employee of the executive branch of state government who is not a member of the civil service, and who is subject to an Executive order requiring a mandatory furlough for state employees.

(3) A state employee, a person who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or a person who is an officer or employee of the executive branch of state government who is not a member of the civil service, and whose employer is not under the direct executive authority of the Governor, and who is subject to a mandatory furlough imposed by his or her employer in response to encouragement in an Executive order.

(c) An employer of an employee identified in subdivision (b) shall notify the board of the terms and conditions of any mandatory furlough, including, but not limited to, the amount of mandatory furlough time imposed on employees during a reporting period and the date on which the mandatory furlough ends. The employer and the Controller shall provide any additional information as the board may require to implement this section.

(Added by Stats. 2009, Ch. 240; amended by Stats. 2010, Ch. 639; and by Stats. 2012, Ch. 833.)

§ 20969.1. Mandatory Employee Furloughs—Trial Court Employees

(a) For all retirement purposes, including benefit eligibility and calculations of retirement allowances for members employed by a trial court that are subject to mandatory furloughs, as defined in subdivision (c), credit for service and compensation earnable shall be based on the amounts of service and compensation earnable that would have been credited had the employee not been subject to mandatory furloughs.

(b) A trial court shall notify the board of the terms and conditions of any mandatory furlough, including, but not limited to, the amount of mandatory furlough time imposed on employees during a reporting period, and the date on which the mandatory furlough ends. A trial court and a county in which the trial court is located that participates in this system by joint contract pursuant to Section 20460.1 shall provide that additional information as the board may require to implement this section.

(c) For the purposes of this section, "mandatory furloughs" is limited to the time during which a trial court employee is directed to be absent from work without pay in the 2009-10 fiscal year on the day designated by the Judicial Council for closure of the courts as authorized in Section 68106.

(d) For purposes of this section, "trial court employee" means a trial court employee, as that term is defined in Section 71601, whose employer has

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contracted for its employees to become members of the California Public Employees' Retirement System.

(Added by Stats. 2009, Ch. 342; amended by Stats. 2011, Ch. 440.)

§ 20969.2. Mandatory Employee Furloughs—School and Local Public Safety Employees

(a) For all retirement purposes, including benefit eligibility and calculations of retirement allowances under this part for a person employed by a county office of education, a school district, a school district that is a contracting agency, a community college district, or a local safety member, as defined in Section 20420, that is subject to mandatory furloughs, the employee's credit for service and compensation earnable shall include the amount of service that would have been credited and the compensation earnable that would have been reported had the employee not been subject to a mandatory furlough.

(b) For the purposes of this section, "mandatory furlough" includes any time period on or after July 1, 2008, during which employees are directed to be absent from work without pay on the day or days designated by their employer or by a memorandum of understanding by the parties entered into on or after July 1, 2008, for purposes of achieving budgetary savings.

(c) An employer of an employee identified in subdivision (a) shall notify the board and, if applicable, the county superintendent of schools of the terms and conditions of any mandatory furlough, including, but not limited to, the amount of mandatory furlough time imposed on employees during a reporting period, and the date on which the mandatory furlough ends. The employer and, if applicable, the county superintendent of schools shall provide any additional information as the board may require to implement this section.

(Added by Stats. 2010, Ch. 574.)

§ 20970. Determining Qualification

The determining qualification for retirement and the benefit provided under Section 21546 and calculating benefits payable upon death before retirement other than that provided under Section 21546, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his or her duties the full amount of time he or she was required by his or her employment to be so engaged. In calculating service to determine the qualification, credit for fractional years shall be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his or her duties within the year, by the time he or she was required by his or her employment to be so engaged.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1959, Ch. 778; and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; renumbered by Stats. 1995, Ch. 379.)

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§ 20971. Compensation Earnable for Partial Retirement Service

For the purposes of the computations required by subdivision (b) or (c) of Section 21532, the annual compensation earnable by a person in partial service retirement shall be deemed the amount of annual compensation the person would have received had the person been employed on a full-time basis.

(Added by Stats. 1983, Ch. 1258, effective 8/30/83, operative 1/1/84; renumbered by Stats. 1995, Ch. 379.)

§ 20972. Concurrent Service

If a person has been employed by the state or one or more contracting agencies in any relative order and regardless of whether the employment was before or after the effective date of the contract, and if he or she has not been paid his or her accumulated contributions, or having been paid those contributions, he or she redeposits them, he or she shall receive credit for all state service and those employers shall be liable for all state service rendered in their respective employments and that service shall be included in the calculation of the liability of the respective employers under the contracts.

A member who has been employed other than concurrently by two or more employers shall not be denied credit under this section for service prior to the contract date because of intervening employment with the same employer after the contract date and under circumstances that did not qualify him or her for prior service credit under Section 20931 or 20933.

Any member who reentered this system prior to October 1, 1957, and who did not have a right to redeposit withdrawn contributions because of provisions of this section existing prior to that date may redeposit those contributions in accordance with Section 20750.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 515; by Stats. 1949, Ch. 298 and Ch. 1215; by Stats. 1951, Ch. 614; by Stats. 1955, Ch. 1411; by Stats. 1957, Ch. 1843; and by Stats. 1963, Ch. 1503; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 4. ABSENCES FROM EMPLOYMENT

§ 20990. Military Service

A member is absent on military service when he or she is absent from state service by reason of service with the uniformed services. Uniformed services means the Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

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Service in the uniformed services means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, and a period for which a member is absent from a position of employment for the purpose of an examination to determine the fitness of the member to perform any duty.

The system shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1048; by Stats. 1947, Ch. 1140; by Stats. 1950, 3rd Ex. Sess., Ch. 44; by Stats. 1951, Ch. 612 and Ch. 1739; by Stats. 1957, Ch. 1205; and by Stats. 1985, Ch. 1067, effective 9/27/85; repealed and added by Stats. 1995, Ch. 379; and by Stats. 1996, Ch. 680.)

§ 20991. Return from Military Service—Contributions for Credit

Any member who was absent on military service and whose contributions are not paid for him or her by his or her employer as provided in Section 20997, may make the contributions upon his or her return to state service at times and in the manner prescribed by the board. If he or she does so contribute, he or she shall receive credit for the absence as state service in the same manner as if he or she had not been absent from state service.

(Added by Stats. 1950, 3rd Ex. Sess., Ch. 44, effective 10/19/50; amended by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379.)

§ 20992. Repealed

(Repealed by Stats. 1999, Ch 785.)

§ 20993. Military Service—Employer Contributions

When a member makes the contributions as provided in Section 20991, the same contributions shall be made by the state or contracting agency with respect to the absence that would have been made if the member had not been absent on military service, except that the contributions shall be determined by the employer rate of contribution in effect when the contributions are made and may be included in the employer rate of contribution at the next valuation.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1950, 3rd Ex. Sess., Ch. 44; by Stats. 1981, Ch. 609; and by Stats. 1983, Ch. 773; renumbered by Stats. 1995, Ch. 379.)

§ 20994. Military Service—Membership—Contracting Agency Employee

Any employee of a contracting agency who is or was absent on military service on the effective date of the contract and who would become or would have

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become a member if he or she were not absent becomes or became a member on the effective date, with the same status and rights of membership as if he or she were not or had not been so absent on the effective date. Any such employee and any other employee of a contracting agency who was absent on military service prior to the effective date shall receive credit as prior service for time during which he or she was absent on military service prior to the effective date provided the employee is entitled to receive prior service credit pursuant to Section 20933 or 20934 and he or she returned to employment of the contracting agency within six months of the termination of his or her active service with the uniformed services under conditions other than dishonorable or within six months after any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes.

(Added by Stats. 1945, Ch. 1224; amended by Stats. 1947, Ch. 412; by Stats. 1949, Ch. 298; by Stats. 1950, 3rd Ex. Sess., Ch. 44, and by Stats. 1965, Ch. 1183, operative 10/1/65; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 680.)

§ 20995. Military Service—Membership—State Employee

Any person in the employ of the state who was or is absent on military service on the date when he or she otherwise would have become or would become a member, became or becomes a member on that date, with the same status and rights of membership as if he or she had not been or were not absent.

(Added by Stats. 1947, Ch. 1140; renumbered by Stats. 1995, Ch. 379.)

§ 20996. Military Service—Membership—Contracting Agency Employee

An employee of a contracting agency who is or was absent on military service on the effective date of the contract and who would become or would have become a member if he or she were not absent becomes or became a member on that effective date, with the same status and rights of membership as if he or she were not or had not been absent on that effective date. The employee and any other employee of a contracting agency who was absent on military service prior to that effective date shall receive credit as prior service for time during which he or she was absent on military service prior to that effective date provided that employee is entitled to receive prior service credit pursuant to Section 20933, 20934, or 20972 and he or she returned to employment of the contracting agency within six months of the termination of his or her active service with the uniformed services under conditions other than dishonorable or within six months after any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for the approval of

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contracts or in the case of contracts made after January 1, 1989, by express provision in the contract making the contracting agency subject to this section.

(Added by Stats. 1988, Ch. 779; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 680.)

§ 20997. Military Service—Employer Contribution

(a) Notwithstanding any other provision of this part, for each member other than a National Guard member absent without compensation due to military service pursuant to Section 20990, the employer shall contribute an amount equal to the contributions that would have been made by the employer and the employee during the absence. The employer's contribution pursuant to this section shall be based upon the member's compensation earnable and the contribution rates in effect at the commencement of the absence, if any of the following apply:

(1) The member returns to state service within six months after receiving a discharge from military service other than dishonorable.

(2) The member returns to state service within six months after completion of any period of rehabilitation offered by the United States government, except that for purposes of this section, rehabilitation solely for education purposes shall not be considered.

(3) The member is granted a leave of absence from the state employer as of the same date the member was reinstated to that employment from military service, provided that the member returns to state service at the conclusion of the leave.

(4) The member is placed on a state civil service reemployment list within six months after receiving a discharge from military service other than dishonorable and returns to state service upon receipt of an offer of reemployment.

(5) The member retires from this system for service or disability during the course of an absence from state service for military service.

(6) The member dies during the course of an absence from state service for military service.

(b) Any member on leave from state service for military service who elects to continue contributing to this system shall be entitled to a refund of those contributions upon request.

(c) Any member who withdrew contributions during or in contemplation of his or her military service is entitled to the benefits of this section irrespective of whether the contributions are redeposited. The rate for future contributions for the member shall be based upon the member's age at the time the member commenced a leave of absence from state service for service in the military.

(d) The employer's contribution pursuant to this section may be made either in lump sum, or it may be included in its monthly contribution as adjusted by inclusion of the amount due in the employer rate at the valuation most near in time to the event causing the employer's liability for those contributions. The employer's contributions pursuant to this section shall be used solely for the

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purpose of paying retirement and death benefits and shall not be paid to the member whose contributions are refunded to him or her pursuant to Section 20735.

(Added by Stats. 1945, Ch. 652; amended by Stats. 1946, 1st Ex. Sess., Ch. 38; by Stats. 1947, Ch. 1140; by Stats. 1949, Ch. 1215, Ch. 1216, and Ch. 1217; by Stats. 1950, 3d Ex. Sess., Ch. 44; by Stats. 1951, Ch. 1739; by Stats. 1953, Ch. 1186; by Stats. 1968, Ch. 239; and by Stats. 1987, Ch. 1164; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 680 and by Stats. 2007, Ch. 355.)

§ 20998. Military Service—Withdrawal of Contributions

If a member for whose absence on military service employer's contributions are paid or payable under Section 20997 withdraws or has withdrawn or is or has been paid his or her accumulated contributions after his or her return to state service from military service, and thereafter reenters or reentered state service without redepositing the amount of the accumulated contributions last withdrawn by or repaid to him or her, he or she is nevertheless entitled to be credited with the employer's contributions for his or her absence on military service under Section 20997, and to receive credit for service for the period of his or her absence on military service, the same as if he or she had not withdrawn or been repaid his or her accumulated contributions. The future contribution rate of a member shall be based upon an age determined by deducting the period of his or her absence on military service so credited to him or her from his age at the time of his or her last re-entry into state service.

(Added by Stats. 1953, Ch. 1186, operative 10/1/53; renumbered by Stats. 1995, Ch. 379.)

§ 21000. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21001. Repealed

(Repealed by Stats. 2001, Ch. 793.)

§ 21002. Leave for Serious Illness

A member who returns to active service following an employer-approved uncompensated leave of absence because of his or her serious illness or injury may purchase service credit for that period of absence upon the payment of contributions as specified in Sections 21050 and 21052. The purchase of additional service credit pursuant to this section shall not reduce the amount of service credit that the member is eligible to purchase pursuant to this chapter. A

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member may purchase service credit pursuant to this section for a leave of absence that occurred either before or after the effective date of these provisions.

(Added by Stats. 2008, Ch. 470; amended by Stats. 2012, Ch. 833.)

§ 21003. Employment Related Injury or Illness

Time during which a member is absent from state service by reason of injury or illness determined within one year after the end of the absence to have arisen out of and in the course of his or her employment shall be considered as spent in state service for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits, except as he or she receives compensation as distinguished from disability indemnity under the Labor Code, during the absence, and then only to the extent of compensation received.

(Added by Stats. 1945, Ch. 123; renumbered by Stats. 1995, Ch. 379; amended and renumbered by Stats. 1996, Ch. 906.)

§ 21004. Leave for Temporary Disability

"Leave of absence" also means absence from state service because of illness or injury that arose out of and in the course of employment and for which the member received temporary disability benefits under the Labor Code during the absence and did not receive full compensation as distinguished from the disability benefits for the period of absence.

(Added by Stats. 1983, Ch. 395; renumbered by Stats. 1995, Ch. 379; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 2012, Ch. 833.)

§ 21005. Compensated Leave for Work-Related Injury or Illness

Time during which a member is absent from state service under leave of absence because of injury or illness that arose out of and in the course of employment, and for which he or she receives full or part salary in lieu of disability indemnity, shall be considered as time spent in state service for purposes of requirement of employer and member contribution, computation of service credit and qualification for and calculation of benefits as though he or she had not been absent.

(Added by Stats. 1974, Ch. 374, effective 6/28/74, operative 7/1/74; renumbered and amended by Stats. 1976, Ch. 1115; repealed and added by Stats. 1995, Ch. 379; amended and renumbered by Stats. 1996, Ch. 906.)

§ 21006. Educational Leave—State Member

(a) "Leave of absence" also means any time during which a state member was excused from performance of his or her duties on approved leave for the purpose of further education. Any member electing to receive service credit for that leave of absence shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who applies to make that election between

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January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(b) Credit granted under this section may not exceed two years.

(c) This section shall be applicable to persons who are members or became members of this system on and after January 1, 1975.

(Added by Stats. 1976, Ch. 1027; amended and renumbered by Stats. 1983, Ch. 395; renumbered by Stats. 1995, Ch. 379; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 2000, Ch. 489; and by Stats. 2001, Ch. 159.)

§ 21007. Leave for Service in Education, Government, or Nonprofit Organization

"Leave of absence" also means any time during which a member is granted an approved leave for the purpose of service with a university; college; local, state, federal or foreign governmental agency; or nonprofit organization, if he or she returns to employment within the terms and conditions under which the leave was granted. A member may elect to receive service credit for that leave of absence at any time prior to retirement by making the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050. In no event shall a member receive service credit in excess of two years for each approved leave of absence.

(Added by Stats. 1983, Ch. 395; amended by Stats. 1985, Ch. 176, effective 7/8/85; and by Stats. 1989, Ch. 1143; renumbered by Stats. 1995, Ch. 379; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 2000, Ch. 489.)

§ 21008. Partially Compensated Leave—Sabbatical or Other

Time during which a member is excused from performance of his or her duties, whether or not he or she is required to perform any portion of those duties during that time, and for which he or she receives compensation, but in an amount less than the full compensation earnable by him or her while performing his or her duties when not so excused, such as sabbatical leave, shall be credited as service in the proportion that the compensation paid to the member bears to the full compensation that would be earnable by him or her while performing his or her duties on a full-time basis. However, the member shall receive full-time credit for the time if after returning to the employment from which he or she was excused and at any time prior to retirement he or she elects to, and does, make the contributions as specified in Sections 21050 and 21052. However, any eligible

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member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(Added by Stats. 1953, Ch. 1186; amended by Stats. 1968, Ch. 467; by Stats. 1969, Ch. 1226, effective 12/1/69; amended and renumbered by Stats. 1983, Ch. 395; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 21009. Partially Compensated Leave—State Member

"Leave of absence" also means time during which a state member is excused from the performance of a portion of his or her duties and did not, during the absence, receive full compensation if the partial leave of absence was formally granted by the employer for one of the purposes specified in this article. The contributions and interest required of the member shall be determined by the section that defines the purpose of the leave and by the amount of service credit the member would have received had he or she not been absent.

(Added by Stats. 1986, Ch. 637; renumbered by Stats. 1995, Ch. 379.)

§ 21010. Member Contributions for Credit for Leave from State Service

Unless otherwise provided in this article, a member electing to receive service credit for time during which he or she was absent from state service shall contribute in a lump sum or by installments over that period and subject to such minimum payments as may be prescribed by regulations of the board, an amount equal to (a) the contributions he or she would have made to this system for the period for which current service credit is granted, assuming that the rate of contribution under his or her employer's formula at the rate age applicable to him or her at the beginning of his or her first subsequent period of service in membership and his or her compensation earnable on that date had applied to him or her during the period for which credit is granted, plus (b) those added contributions as may be specially required under this article as a condition for crediting a particular absence, plus (c) the interest that would have accrued to those contributions if they had been on deposit at the beginning date of his or her first subsequent period of service in membership, from that date until the date of completion of payments. The beginning date of the first subsequent period of service for purposes of computation of contributions and interest shall be deemed to be the end of the period of service credited for a member who has no subsequent return to service. For a member who is subject to Section 21076 or 21076.5, and Section 21077, the service and contribution rate to be used for purposes of computation shall be deemed to be the service and contribution rate that would have been used had the member not been subject to Section 21076 or 21076.5, and Section 21077.

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Service shall be credited as current or prior service, or both, as it would be credited if the member had been in state service during his or her absence. All contributions of a member under this article shall be considered to be and shall be administered as normal contributions.

(Added by Stats. 1983, Ch. 395; amended by Stats. 1989, Ch. 891, effective 9/26/89; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2013, Ch. 526.)

§ 21011. Member Contributions for Credit for Leave from State Service—Second Tier

Notwithstanding Section 21010, for a member electing to receive service credit for time during which he or she was absent from state service who is subject to Section 21076 or 21076.5, and Section 21077, the contribution rate to be used for the purposes of computation shall be deemed to be the contribution rate that would have been used had the member not been subject to Section 21076 or 21076.5, and Section 21077.

(Added by Stats. 1989, Ch. 1143; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2013, Ch. 526.)

§ 21012. Employer Liability for Benefits from Service Credit for Leave

Benefits based on service credited under this article for an absence that are in excess of the portion paid from member contributions shall be paid from contributions of the employer from whose employment the member was absent.

(Added by Stats. 1983, Ch. 395; renumbered by Stats. 1995, Ch. 379.)

§ 21013. Maternity or Paternity Leave

"Leave of absence" also means any time, up to one year, during which a member is granted an approved maternity or paternity leave and returns to employment at the end of the approved leave for a period of time at least equal to that leave. Any member electing to receive service credit for that leave of absence shall make the contributions as specified in Sections 21050 and 21052. This section applies to both past and future maternity or paternity leaves of absences by members of the system.

(Added by Stats. 1996, Ch. 914; amended by Stats. 2000, Ch. 489; and by Stats. 2003, Ch. 519.)

ARTICLE 5. CREDIT FOR PUBLIC SERVICE

§ 21020. "Public Service"

"Public service" for purposes of this article means the following:

(a) The period of time an employee served the state, a school employer, or a contracting agency prior to becoming a member, when the service was rendered in

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a position in which the employee was excluded provided one of the following conditions is met:

(1) The position has since become subject to compulsory membership in this system.

(2) The employee was excluded because the employee was serving on a part-time basis.

(3) The employee was excluded because the employee failed to exercise the right to elect membership under this part.

(b) Employment in the State Emergency Relief Administration or the State Relief Administration, regardless of the source of the compensation paid for that employment.

(c) Employment as an academic employee of the University of California prior to October 1, 1963.

(d) Employment by the state in which the person was not eligible for membership in this system if the ineligibility was solely because his or her compensation was paid from other than state-controlled funds. However, time spent in work as a work relief recipient under programs such as, but not limited to, the Works Progress Administration, the Civil Works Administration, the Federal Emergency Relief Administration, the National Youth Administration, and the Civilian Conservation Corps, shall not constitute public service.

(e) Employment in a function formerly performed by a public agency other than a contracting agency and assumed by a contracting agency where the employees who performed those functions are or were transferred to or employed by the contracting agency without change in occupation or position.

(f) Civilian service as an employee or officer of an agency of the government of the United States that performed functions the same as or substantially similar to those performed by this state prior to January 1, 1942, and that were transferred from the state to that agency, including military service in any branch of the Armed Forces of the United States performed by an individual on military leave of absence from that federal employment, if all the following conditions exist:

(1) Prior to performing that federal service he or she was employed by the state.

(2) He or she was laid off from state service or would have been laid off if he or she had not been absent in military service because of the transfer of the functions of the state to an agency of the United States government.

(3) Subsequent to his or her layoff from state service he or she was employed by the United States government in an agency performing functions the same as or substantially similar to those of the state agency from which he or she was laid off.

(4) After his or her separation from federal service, he or she was employed by a state agency.

(5) In lieu of paragraphs (1), (2), and (3), the United States government pays to the state or an agency of the state, funds equal to contributions that would have been made by the state had the member been in state service for the period of his or her public service with respect to members who were not employed by the state

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prior to entering that federal employment or whose state service prior to entering that federal employment was terminated for reasons other than the transfer of the function.

(g) Employment in a district, prior to the time the district became a subsidiary district of a city, of a person who was employed by the city following the reorganization to render service to the district and who became a member in that employment.

(Added by Stats. 1951, Ch. 1757; repealed and added by Stats. 1969, Ch. 1226; amended by Stats. 1972, Ch. 1328; by Stats. 1973, Ch. 389; by Stats. 1974, Ch. 1380; by Stats. 1975, Ch. 333; by Stats. 1977, Ch. 1110; by Stats. 1979, Ch. 526; by Stats. 1980, Ch. 481; by Stats. 1983, Ch. 395; by Stats. 1988, Ch. 763; and by Stats. 1989, Ch. 1143; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2000, Ch. 489.)

§ 21020.5. "Public Service"—Fellowship Employment

(a) "Public service" also means time, on or after October 14, 1991, during which a person was employed under the California Senate Fellows, the Assembly Fellowship, or the Executive Fellowship programs, and time, on or after January 1, 2003, during which a person was employed under the Judicial Administration Fellowship program.

(b) A member may elect at any time prior to retirement to receive service credit for that public service by making the contributions as specified in Sections 21050 and 21052.

(c) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(Added by Stats. 2002, Ch. 56.)

§ 21021. "Public Service"—Community College Student Body Organization

"Public service" for the employee of a student body organization, that is not a contracting agency, of a community college, means the period of employment prior to becoming a member of the permanent classified service of the district pursuant to Section 76060 or 88020 of the Education Code.

The county superintendent of schools or superintendent of schools of an independently contracting community college district shall draw a requisition against the funds of the community college district for an amount equal to the total employer contribution that would have been requisitioned under Section 20617 had that service been rendered in the employ of the community college district and the employer rate and member compensation on the date of transfer had been in effect throughout the period of service credited.

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The governing board may, at its discretion, establish a method of recovering a portion of, or the total liability for, the amount so requisitioned.

(Added by Stats. 1985, Ch. 469; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 21022. "Public Service"—Layoff Period—Local Member

"Public service," with respect to a local member who is a full-time employee, also means any time on or after January 1, 1981, but not to exceed 12 months, during which the local member is laid off. In the event the member becomes subject to membership through employment in another member classification during the layoff period, any service credit accumulated through and contributions associated with the intervening employment shall be revoked upon election by the member to purchase public service credit as provided by this section. The service credit provided by this section shall not exceed one year for each layoff period and shall be provided to any person who: (1) returns within 12 months of the date of layoff to full-time employment under the procedures of the employer for returning laid-off employees to work; (2) elects to purchase the public service credit within three years of return to work or the effective date of the contract amendment to become subject to this section; and (3) redeposits any contributions which had been withdrawn at the commencement of, or during, the period of the layoff.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(Added by Stats. 1984, Ch. 1293; amended by Stats. 1985, Ch. 330; by Stats. 1986, Ch. 354; by Stats. 1988, Ch. 1235; and by Stats. 1993, Ch. 684; repealed and added by Stats. 1995, Ch. 379.)

§ 21023. "Public Service"—Prisoner of War or Combat Injury or Illness—State Member

(a) "Public service" with respect to a state member, other than a university member, also means the following:

(1) Time during which the member was a prisoner of war involving the United States, plus the time, if any, during which a member was hospitalized following his or her release from captivity for a disabling wound, injury, or disease directly attributable to that captivity but not to include hospitalization after the member's honorable and permanent medical separation from the armed forces.

(2) Time between the onset of the member's disabling wound, injury, or disease, directly attributable to service in combat with the armed forces during a war involving the United States, and the date of the member's honorable and permanent medical separation from the armed forces due to the disabling

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condition, if the member has a permanent disability rating in excess of 50 percent, that percentage having been determined under applicable federal law.

(b) For the purposes of this section, a war involving the United States exists in any of the following circumstances:

(1) Whenever Congress has declared war and peace has not been formally restored.

(2) Whenever the United States is engaged in active military operations against any foreign power, whether or not a war has been formally declared.

(3) Whenever the United States is assisting the United Nations, in actions involving the use of the armed forces, to maintain or restore international peace and security.

(c) A member electing to receive credit for public service under this section shall pay the contributions and interest required pursuant to Section 21033.

(d) This section shall apply to a member only if the member elects to receive credit while he or she is a state member, other than a university member, and he or she is credited with at least 10 years of service as a state member, other than a university member, on the date of the election.

(e) The maximum public service credit that may be received pursuant to this section is five years.

(f) This section shall not apply to any member receiving military retirement pay as described in Section 20896 or disability retirement pay as described in Section 20897.

(g) Except as provided in subdivision (f), this section shall apply to a state member, other than a university member, who leaves or has left employment with the state, subsequently meets or has subsequently met the conditions specified in subdivisions (a) and (b), and thereafter returns or thereafter has returned to service as a state member, other than a university member, is not entitled to receive the service credit pursuant to Section 20991 or 20997.

(Added by Stats. 1985, Ch. 1571; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 21023.5. "Public Service"—Time as Volunteer

(a) "Public service" for purposes of this article also means time served, not to exceed three years, as a volunteer in the Peace Corps, AmeriCorps VISTA (Volunteers In Service To America), or AmeriCorps.

(b) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(c) Any member electing to receive credit for service under this section shall make the contributions as specified in Sections 21050 and 21052. This section

applies to past and future service in the Peace Corps, AmeriCorps VISTA (Volunteers In Service To America), or AmeriCorps.

(Added by Stats. 1999, Ch. 834; amended by Stats. 2000, Ch. 489; and by Stats. 2002, Ch. 546.)

§ 21024. "Public Service"—Military Service—Local Member

(a) "Public service" with respect to a local member, other than a school member, also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the member's first employment by the employer under this section in which he or she was a member.

(b) Any member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service under this section shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990) or (2) to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a member may select which of two or more periods of service entitles him or her to receive public service under this section.

(e) This section shall apply to a member only if he or she elects to receive credit while he or she is in state service in the employment of one employer on or after the date of the employer's election to be subject to this section.

(f) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section takes effect, by express provision in the contract making the contracting agency subject to this section. The amendments to this section made during the second year of the 1999-2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

(Added by Stats. 1974, Ch. 1437; amended by Stats. 1976, Ch. 830; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489; and by Stats. 2001, Ch. 793.)

Note: The amendments to Section 20930.3 of the Government Code enacted at the 1975-76 Regular Session of the Legislature shall only apply to those contracting agencies electing to become subject to the provisions of this section and entering into or amending their contract after January 1, 1977. However, contracting agencies which elected to become subject to Section 20930.3 prior to January 1, 1977, may further

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amend their contract as to employees who have not elected service under Section 20930.3 prior to 90 days after such further amendment, to provide service credit under Section 20930.3 as amended; provided, that such a contract amendment has been agreed upon by the employer and the employees or their representatives.

§ 21024.5. "Public Service"—Firefighter Employment—Local Firefighter

(a) "Public service" with respect to a member who is a local firefighter also means time served, before becoming a member, as a permanent career civilian federal firefighter or permanent career state firefighter in a position whose principal duties consist of active fire suppression or law enforcement and that service was terminated as a direct consequence of the closure, downsizing, or realignment of a federal military installation.

(b) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(Added by Stats. 2006, Ch. 834.)

§ 21025. "Public Service"—Agency or Function Assumed by Other Agency—Local Member

"Public service" with respect to a local member also means service rendered to a public agency if that agency or a function of that agency is assumed by a contracting agency or a public agency that thereafter becomes a contracting agency.

This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(Added by Stats. 1982, Ch. 1220, effective 9/21/82; repealed and added by Stats. 1995, Ch. 379.)

§ 21025.5. "Public Service"—Independent Data Processing Centers—School Members

(a) "Public service" with respect to a school member or a retired school member also means service rendered on or after June 30, 1977, and prior to June 30, 1982, to an independent data processing center formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of Title 1 of the Education Code, as it read on December 31, 1990, if all of the following conditions are met:

(1) The member was a school member prior to employment with the independent data processing center.

(2) The member returned to school employment following termination of his or her employment with the independent data processing center.

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(3) The member received a refund of the contributions he or she made to the system during his or her employment with the independent data processing center.

(b) A retirement allowance of a retired school member who elects to receive service credit for public service pursuant to this section shall be increased only with respect to the allowance payable on and after the first day of the month following the date the election is received.

(c) A member may elect to receive credit for public service pursuant to this section at any time.

(d) Any member electing to receive credit for service under this section shall make the contributions as specified in Sections 21050 and 21052.

(Added by Stats. 2003, Ch. 560.)

§ 21026. "Public Service"—California Nonprofit Corporation—Local Member

"Public service" with respect to a local member also means service rendered to any California nonprofit corporation whose function is to serve firefighters employed by state and local agencies.

This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

(Added by Stats. 1987, Ch. 304; repealed and added by Stats. 1995, Ch. 379.)

§ 21027. "Public Service"—Military Service—Retired Local Member

(a) "Public service" with respect to a local member who retired pursuant to this part before the effective date of the election of his or her employer to be subject to Section 21024 also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the person's first employment by the employer under this section in which he or she was a member.

(b) Any retired person electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990) or (2) to the extent that total credit under this section would exceed four years.

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(d) Notwithstanding Section 21034, a retired person may select which of two or more periods of service entitles him or her to receive public service under this section.

(e) This section shall apply to a retired person only if he or she retired immediately following service as a local member, pursuant to this part, and before the effective date of the election by his or her employer to be subject to Section 21024.

(f) The retirement allowance of a retired person who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the effective date of the election.

(g) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency has elected to be subject to Section 21024 and elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contacts made after January 1, 1988, by express provision in the contract making the contracting agency subject to both Section 21024 and this section. The amendments to this section made during the second year of the 1999-2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

(Added by Stats. 1987, Ch. 766; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489; and by Stats. 2001, Ch. 793.)

§ 21028. "Public Service"—Irregular Employment

"Public service" also means service in temporary, seasonal, limited term, on call, emergency, intermittent, substitute, or other irregular employment in which a person is excluded from membership.

(Added by Stats. 1974, Ch. 1480; amended by Stats. 1990, Ch. 658, effective 9/12/90; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 83.)

§ 21029. "Public Service"—Military Service—State or School Member

(a) "Public service" with respect to a state member or a school member or with respect to a retired former state employee or a retired former school employee, who retired on or after December 31, 1981, also means active service, prior to entering this system as a state member or as a school member, of not less than one year in the Armed Forces of the United States, or, active service, prior to entering this system as a state or school member, of not less than one year in the Merchant Marine of the United States prior to January 1, 1950. Public service credit shall not be granted if the service described above terminated with a discharge under dishonorable conditions. The public service credit to be granted for that service shall be on the basis of one year of credit for each year of credited state service, but shall not exceed a total of four years of public service credit regardless of the number of years of either that service or subsequent state service. A state member

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or a school member or a retired former state employee or a retired former school employee electing to receive a credit for that public service shall have been credited with at least one year of state service on the date of election or the date of retirement.

(b) An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university, or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member. The retirement allowance of a retired former state employee or a retired former school employee, who elects to receive public service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election. For the purposes of this section, a member as described in subdivision (d) of Section 20776, shall also mean a former state employee or a former school employee, who retired on or after December 31, 1981.

(c) A member or retired former employee who elects to become subject to this section shall make the contributions as specified in Sections 21050 and 21052.

(d) The board has no duty to locate or notify any eligible former member who is currently retired or to provide the name or address of any such retired person, agency, or entity for the purpose of notifying those persons.

(Added by Stats. 1987, Ch. 810; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 369; and by Stats. 2000, Ch. 489.)

§ 21029.5. "Public Service"—Military Service—California National Guard

(a) "Public service" with respect to a state member also means all periods of service rendered as an officer, warrant officer, or a person in the enlisted ranks of the California National Guard prior to electing membership in this system pursuant to Section 20326. "Public service" also means an officer, warrant officer, or a person in the enlisted ranks of the California National Guard rendering service authorized by Title 10 of the United States Code. Public service may not be granted if the service described in this section was terminated by a discharge under other than honorable conditions.

(b) A member who elects to purchase service credit for public service under this section shall pay the contributions described in Sections 21050 and 21052.

(Added by Stats. 2007, Ch. 355.)

§ 21030. "Public Service"—Comprehensive Employment and Training Act of 1973

(a) "Public service" for purposes of this article also means employment under a program sponsored by, and financed at least in part by, the Comprehensive Employment and Training Act of 1973, as amended.

(b) Notwithstanding any other provision of law, a member electing to receive credit for public service under this section shall make the contributions as

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specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) Benefits arising from service credited to a member under this section shall become a liability of the employer for which the service was rendered.

(Added by Stats. 1978, Ch. 785, effective 9/18/78; amended by Stats. 1986, Ch. 637; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 21031. "Public Service"—Employment Prior to Agency Contract

(a) "Public service" also means employment by a contracting agency before the effective date of its contract with the board, and is limited to that portion of the service that the agency does not provide in its contract for inclusion as prior service.

(b) A member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21051. The election may be made at any time prior to retirement.

(c) If the contracting agency subsequently amends its contract to include a greater percentage of final compensation as prior service, the electing member shall be refunded that portion of his or her contributions made under this section as represents the additional prior service percentage contracted for by the agency plus interest at the crediting rate.

(d) If the agency pays all or a portion of the normal contributions required to be paid by a member, the contributions required under this section shall be based upon the normal contribution rate that would be applicable to that member if the agency were not paying any normal contributions under Section 20690 or 20691.

(e) This section shall not apply to any contracting agency until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after March 1, 1982, by express provision in the contract making the contracting agency subject to the provisions of this section. The amendments to this section made during the second year of the 1999-2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

(Added by Stats. 1982, Ch. 72, effective 3/1/82; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 489.)

§ 21032. Member Election to Receive Credit for Public Service

A member may elect at any time prior to retirement, in accordance with regulations of the board, to receive credit for public service, under any of the definitions in this article, in addition to his or her current and prior service credit. An election shall be effective only if accompanied by a lump-sum payment of the

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contributions and interest required for the credit or by authorization for immediate institution of payroll deduction of installment payment of the contributions and interest. The right of election is subject to Sections 20894 and 20961, and shall be ineffective with respect to any time or employment for which the member subsequently becomes entitled to or eligible to elect to receive service credit in another system supported in whole or in part from public funds, in which case accumulated contributions on deposit for the period of service credit shall be paid to the member.

(Added by Stats. 1951, Ch. 1757; amended by Stats. 1953, Ch. 1186, and Ch. 1469, and by Stats. 1957, Ch. 2290; repealed and added by Stats. 1969, Ch. 1226, operative 12/1/69; amended by Stats. 1988, Ch. 331, effective 7/14/88; repealed and added by Stats. 1995, Ch. 379.)

§ 21033. Member Contributions for Public Service Credit

A member electing to receive credit for public service shall contribute in a lump sum or by installment payments over that period and subject to minimum payments as may be prescribed by regulations of the board an amount equal to (a) the contributions he or she would have made to this system for the period for which current service credit is granted, assuming that the rate of contribution under his or her employer's formula at the rate age applicable to him or her at the beginning of his or her first subsequent period of service in membership and his or her compensation earnable on that date had applied to him or her during the period for which credit is granted, plus (b) the added contribution that may be specially required under this article as a condition for crediting particular public service, plus (c) the interest which would have accrued to those contributions if they had been deposited at the beginning date of his or her first subsequent period of service in membership, from that date until the date of completion of payments, and (d) if he or she elects to contribute in other than one sum, interest on the unpaid balance of the amount payable to the retirement fund, beginning on the date of the election to receive credit. The beginning date of the first subsequent period of service for purposes of computation of contribution and interest shall be deemed to be the end of the period of service credited for a member who has no subsequent return to service. For a member who is subject to Section 21076 or 21076.5, and Section 21077, the service and contribution rate to be used for purposes of computation shall be deemed to be the service and contribution rate that would have been used had the member not been subject to Section 21076 or 21076.5, and Section 21077.

(Added by Stats. 1951, Ch. 1757; amended by Stats. 1953, Ch. 1186; repealed and added by Stats. 1969, Ch. 1226, operative 12/1/69; amended by Stats.1987, Ch. 1164; and by Stats. 1989, Ch. 891, effective 9/26/89; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2013, Ch. 526.)

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§ 21034. Credit as Current or Prior Service

Public service may be credited as current or prior service, or both, as it would be credited if the member had been in state service during his or her public service. Credit shall not be granted for public service which would be credited as prior service unless the member has contributed for all other "public service" for which he or she is entitled to elect to receive credit as current service with the employer where the prior service is to be credited.

Benefits based on credited public service shall be computed according to the formula determining the member's contribution for that service credit. "Public service," as defined in subdivisions (a), (b), and (c) of Section 21020 to a member who at membership became subject to a reduced or modified retirement allowance formula because of coordination with the federal system shall be subject to that modified formula to the extent that the service was rendered to any contracting agency in which that modified formula applies after the effective date of coverage under the federal system of members in the employ of that agency.

(Added by Stats. 1951, Ch. 1757; repealed and added by Stats. 1969, Ch. 1226, operative 12/1/69; amended by Stats. 1989, Ch. 1143; repealed and added by Stats. 1995, Ch. 379.)

§ 21035. Employer Liability for Benefits from Public Service

Benefits based on service credited under this article in excess of the portion paid from member contributions shall be paid from the contributions of the employer in whose employment the service was rendered or the right to receive the service credit for an employment constituting public service was acquired, whichever the case may be.

(Added by Stats. 1951, Ch. 1757; repealed and added by Stats. 1969, Ch. 1226, effective 12/1/69; amended by Stats. 1983, Ch. 395; renumbered by Stats. 1995, Ch. 379.)

§ 21037. Cancellation of Election upon Disability Retirement or Special Death—All Members

Notwithstanding any other provision of law, the following shall apply:

(a) A member who has elected to receive credit for service by contributing in installments and who retires for disability on or after January 1, 2004, when the election for service credit does not increase the member's allowance payable, may elect to cancel the installments prospectively. The member's election may be received by the system no more than 30 days after the date on which the member's retirement for disability is approved. The effective date of the member's election shall be the effective date of the member's retirement for disability. No refund of contributions paid in installments prior to the effective

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date of the member's election may be payable to a member or retired member as a result of an election made by a member pursuant to this section.

(b) A member's election pursuant to this section shall be void, and installment payments shall resume, upon a member's reinstatement from retirement for disability. The remaining balance due shall be recalculated to include interest during the disability retirement period.

(c) On or after January 1, 2004, the survivor of a member who elected to receive credit for service by contributing in installments, when the survivor is eligible to receive an allowance subject to Section 21541, may elect to cancel the installments prospectively when the election for service credit does not increase the survivor's allowance payable. The survivor's election shall be received by the system no more than 30 days after the member's date of death. The effective date of the survivor's election shall be the member's date of death. No refund of contributions paid in installments prior to the member's date of death may be payable as a result of an election made by a survivor pursuant to this section.

(d) A survivor's election pursuant to this section shall be void, and installment payments shall resume, upon a determination that the death was not industrial, following payment of a temporary special death benefit allowance, provided that the survivor is then entitled to a monthly allowance under Section 21546, 21547, 21547.7, or 21548.

The remaining balance due shall be recalculated to include interest during the temporary special death benefit period.

(e) A member who retired for disability prior to January 1, 2004, or the survivor of a deceased disability retiree who began receiving a postretirement death benefit allowance prior to January 1, 2004, or the survivor of a member who began receiving an allowance subject to Section 21541 prior to January 1, 2004, may elect to cancel installments prospectively when the election for service credit does not increase the allowance payable. The effective date of the election shall be the date that the election is received by this system. No refund of contributions paid in installments prior to the effective date of the election may be payable pursuant to this section.

(Added by Stats. 1983, Ch. 885; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 855.)

§ 21038. Classification of Member Contributions

All contributions of a member under this article shall be considered to be and shall be administered as normal contributions.

(Added by Stats. 1989, Ch. 10; amended by Stats. 1989, Ch. 1464, effective 10/2/89; repealed and added by Stats. 1995, Ch. 379; and by Stats. 1996, Ch. 906.)

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§ 21039. Cancellation of Election upon Industrial Disability Retirement—Safety Members

(a) Notwithstanding any other provision of law, a safety member, as defined in subdivision (b) of Section 20371, who has elected to receive credit for service by making contributions in installment payments and who retires or has retired due to industrial disability while making those payments, may elect to cancel the payments prospectively if the election to receive credit for service does not increase the member's allowance payable. The effective date of the member's election to cancel payments shall be the first day of the month following receipt of the election by the system. No refund of contributions paid in installments prior to the effective date of the member's election to cancel the payments shall be payable to a member or retired member as a result of an election made by a member pursuant to this section.

(b) A member's election pursuant to this section shall be void, and the installment payments shall resume, upon a member's reinstatement from retirement for industrial disability. The remaining balance due shall be recalculated to include interest during the industrial disability retirement period.

(c) Nothing in this section shall be construed to limit any right or benefit granted pursuant to Section 20776 or 21037, as amended by Senate Bill 268 of the 2003-04 Regular Session.

(Added by Stats. 2003, Ch. 835.)

ARTICLE 6. SERVICE CREDIT ELECTION AND COST CALCULATION

§ 21050. Election and Payment Requirement

(a) An election by a member to receive credit for service under this part, in addition to his or her current and prior service credit, shall be effective only if accompanied by a lump-sum payment or an authorization for payments, other than a lump-sum payment, in accordance with regulations of the board.

(b) If a member electing to receive credit for service under this part is authorized to pay for that service in installment payments beginning on or after January 1, 2004, the amount of the installment payments shall include an actuarial adjustment, as determined by the chief actuary, as necessary to take into account the provisions of Section 21037. The amount of the actuarial adjustment may not exceed one-half of 1 percent of the total installment payment.

(c) (1) A member authorized to pay for credit for service in after-tax installments may elect in writing, including by verified electronic transaction, at any time prior to retirement, to suspend after-tax installment payments for a period not to exceed 12 months. Installment payments shall automatically resume at the end of the suspension period, or earlier if requested by the member. A member may not elect an additional suspension of those installment payments for the same service for three years following the resumption of installment payments.

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(2) The balance due at the end of a suspension period shall be recalculated to include interest accrued during the suspension.

(3) (A) A member who retires during the suspension period may, prior to retirement, do either of the following:

(i) Make a lump-sum payment for the recalculated balance due.

(ii) Cancel installment payments in the manner specified in subdivision (d).

(B) Failure by a member to make the lump-sum payment or the election to cancel installment payments, will result in the resumption of installment payments as of his or her date of retirement.

(d) A member authorized to pay for credit for service in after-tax installments may elect in writing, including by verified electronic transaction, at any time prior to retirement, to prospectively cancel payment of the remaining unpaid balance for those installment payments.

(1) An election shall be effective upon the earlier of the member's retirement date, or the first day of the month following approval by the system of the election.

(2) Service credited to the member's account will be reduced in proportion to the balance of the total amount remaining unpaid on the effective date of the cancellation. If the member elects to cancel during or at the end of a suspension period, the balance shall include any interest accrued and unpaid during the suspension period.

(3) Installment payments shall not be canceled for any of the following:

(A) Contribution or service credit adjustments required by law or agreement.

(B) A tier election pursuant to Article 2 (commencing with Section 21070) of Chapter 12 of Part 3 of Division 5 of Title 2.

(C) The purchase of service credit subject to a community property division by way of court judgment, domestic relations, or other court order or settlement agreement.

(e) If a member who has not elected to suspend installment payments pursuant to subdivision (c) fails to make after-tax installment payments when due for a period of 12 months, the board may cancel the remaining unpaid balance in the same manner and with the same effect as if the member had elected to cancel his or her installment payments pursuant to subdivision (d).

(f) Prior to retirement, a member may elect to purchase that portion of the service credit not credited to his or her account as a result of a cancellation executed pursuant to subdivision (d) or (e). A member shall not make an election for three years following the effective date of the cancellation unless the member retires before the conclusion of that period.

(1) A member who elects to purchase that service credit shall contribute an amount equal to the sum of the following:

(A) The remaining unpaid balance of the canceled installment payments.

(B) Interest from the effective date of the cancellation until the date of completion of payment.

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(C) If the member elects to contribute in installment payments, interest on the unpaid balance of the amount payable, beginning on the date of the election to receive credit through completion of payments.

(2) Notwithstanding Section 575.1 of Title 2 of the California Code of Regulations, the interest rate applicable to the amount due for this election shall be the interest rate applicable to the canceled installment payments.

(Added by Stats. 2000, Ch. 489; amended by Stats. 2003, Ch. 855; and by Stats. 2010, Ch. 197.)

§ 21051. Rate of Contribution—Interest—Period of Service

(a) A member electing to receive credit for service subject to this section shall contribute, in accordance with Section 21050, an amount equal to the following:

(1) The contributions the member would have made to the system for the period for which current service credit is granted, assuming that the rate of contribution under his or her employer's formula at the rate age applicable to him or her at the beginning of his or her first subsequent period of service in membership and his or her compensation earnable on that date had applied to the member during the period for which credit is granted.

(2) The interest that would have accrued on those contributions if they had been deposited at the beginning date of his or her first subsequent period of service in membership, from that date until the date of completion of payments.

(3) If the member is authorized under Section 21050 to contribute in other than a lump-sum payment, interest on the unpaid balance of the amounts payable under paragraphs (1) and (2), which interest shall begin to accrue as of the date of the election to receive credit.

(b) The beginning date of the first subsequent period of service, for purposes of computation of contributions and interest, shall be deemed to be the end of the period of service credited for a member who has no subsequent return to service.

(Added by Stats. 2000, Ch. 489; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21052. Member Contributions for Public Service

A member or retired former employee who elects to receive service credit subject to this section shall contribute, in accordance with Section 21050, an amount equal to the increase in employer liability, using the payrate and other factors affecting liability on the date of the request for costing of the service credit. The methodology for calculating the amount of the contribution shall be determined by the chief actuary and approved by the board. A member or retired former employee electing to receive service credit for service subject to Section 21076, 21076.5, or 21077 shall pay the contributions as described.

(Added by Stats. 2000, Ch. 489; amended by Stats. 2013, Ch. 526.)

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§ 21052.5. Election of Service Credit—National Guard Member

A person who is solely a National Guard member or who retires from membership in this system solely as a National Guard member may elect to receive service credit under either of the following:

(a) The National Guard member elects to receive service credit pursuant to Section 20750, 20751, 20751.5, or 20753.

(b) The National Guard member elects to receive service credit pursuant to a provision that requires the member to pay contributions as described in Sections 21050 and 21052.

(Added by Stats. 2007, Ch. 355.)

§ 21053. Classification of Member Contributions

All contributions of a member under this article shall be deemed to be and shall be administered as normal contributions.

(Added by Stats. 2000, Ch. 489.)

§ 21054. Recalculation of Military Service Credit

Notwithstanding any other provision of law, a member or retired member who elected to purchase military service credit under Section 21024 or 21027 on or after January 1, 1999, and prior to January 1, 2001, may, at any time prior to making the final payment for the service credit, elect to have the cost of that service credit recalculated pursuant to Section 21052. If that cost as recalculated under Section 21052 is less than the cost as originally calculated, the member or retired member shall pay the lesser amount, with credit for the payments previously made. However, no refund shall be payable to a member or retired member as a result of the recalculation of cost pursuant to this section.

(Added by Stats. 2000, Ch. 489; amended by Stats. 2001, Ch. 793.)

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ARTICLE 1. VOLUNTARY SERVICE RETIREMENT

§ 21060. General Conditions

(a) A member shall be retired for service upon his or her written application to the board if he or she has attained 50 years of age and is credited with five years of state service, except as provided in Sections 7522.20, 21061, 21062, and 21074.

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

(c) For a member who has accrued service credit subject to the benefit formula in Section 7522.20 and who has also accrued service credit, within this retirement system, subject to a benefit formula with a minimum retirement age earlier than 52 years of age, the member shall receive an actuarially reduced equivalent benefit, upon retirement, for service subject to Section 7522.20, if the member retires before 52 years of age but at, or after, the minimum age of retirement permitted for other service within this retirement system and the member is credited with at least five years of service.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1421; by Stats. 1959, Ch. 778; by Stats. 1971, Ch. 170; by Stats. 1972, Ch. 1098, operative 4/1/73; by Stats. 1980, Ch. 1168, effective 9/29/80; and by Stats. 1984, Ch. 674, effective 8/17/84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 214, effective 8/11/04; and by Stats. 2013, Ch. 526.)

§ 21061. Conditions—Local Safety Member

(a) A local safety member, other than one subject to Section 21362 or 21362.2, shall be retired for service upon the member's written application to the board if the member has attained the age of 55 years, and is credited with five years of state service.

(b) Subdivision (a) does not apply to the employees of any contracting agency having a contract with the board made prior to September 5, 1945, which contract specifies an age greater than the age of 55 years as the minimum age for voluntary retirement for service for local safety members, until the agency elects to make subdivision (a) applicable to its employees, by amendment to its contract made in the manner prescribed for the approval of contracts, except that an election among the employees is not required.

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Until the contracting agency elects to make subdivision (a) applicable to its employees, a local safety member employed by the contracting agency shall be retired for service upon the member's written application to the board if the member has attained the minimum age for voluntary retirement specified in the contract between his or her employer and the board, and is credited with five years of state service.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 813; by Stats. 1959, Ch. 778; by Stats. 1971, Ch. 96 and Ch. 170, operative 7/1/71; and by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21062. Retirement Before Age 55—Local Safety Member

Notwithstanding Section 21061, a local safety member to whom Section 21061 applies shall be retired for service upon his or her written application to the board if he or she has attained age 50 and is credited with five years of state service.

However, if the member retires before attaining age 55, his or her prior and current service pensions shall be reduced to that amount that the value of the pensions as deferred to that minimum age will purchase at the actual age of retirement on the basis of the mortality tables and actuarial interest rate in effect with respect to those members.

(Added by Stats. 1953, Ch. 547; amended by Stats.1959, Ch. 778; by Stats. 1971, Ch. 96, Ch. 170, operative 7/1/71; and Ch. 742, effective 9/21/71; and by Stats. 1983, Ch. 909; renumbered by Stats. 1995, Ch. 379.)

§ 21063. Review of Reported Compensation

A member may request a meeting, to be conducted by the member's employer, at which the employer shall explain to the member the elements of the member's past or current compensation that have been or will be reported to the board as compensation earnable. The information provided to the member at the meeting shall be provided orally and in writing and a copy of the writing shall be provided to the member for his or her records.

(Added by Stats. 2002, Ch. 1139.)

ARTICLE 2. SECOND TIER RETIREMENT—STATE

§ 21070. First and Second Tier Elections—Through December 31, 1999

(a) Effective January 1, 1985, there shall be an alternative level of benefits available to the following state miscellaneous members: (1) members who are excluded from the definition of state employee in subdivision (c) of Section 3513; (2) members employed by the executive branch of government who are not members of the civil service; and (3) members in state bargaining units for which

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a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section. Effective September 1, 1986, this section shall apply to members employed by the state as provided for in Article VI of the California Constitution. The board shall provide the affected members a one-month election period commencing on August 1, 1986. This section does not apply to state miscellaneous members employed by the California State University or the University of California. This section shall not apply to any employee described by Section 20324 unless and until the employer, as defined in Section 20902, adopts a resolution approving that application.

(b) Effective September 1, 1986, there shall be an alternate level of benefits available to the following state industrial members: (1) members in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section; (2) members who are excluded from the definition of state employees in subdivision (c) of Section 3513; and (3) members employed by the executive branch of government who are not members of the civil service. The board shall provide the affected members a one-month election period commencing on August 1, 1986.

(c) Members eligible to participate in the alternative level of benefits, referred to in this part as the Second Tier, may make an irrevocable election during the period from November 1, 1988, through October 31, 1989, to: (1) become subject to the Second Tier benefits provided for in Section 21076 for all past state miscellaneous and state industrial service and all future state miscellaneous and state industrial service not excluded by this section; (2) become subject to the Second Tier benefits provided for in Section 21077 for state miscellaneous and state industrial service not excluded by this section rendered on and after the effective date of the election to be subject to the Second Tier. Any election by a member to be subject to Section 21076 or 21077 shall also be signed by the spouse of the member and both signatures shall be notarized; (3) become subject to the First Tier retirement formula prescribed by Section 21353 for state miscellaneous and state industrial service rendered on or after the effective date of the election, provided that the member had previously elected coverage pursuant to Section 21076 or 21077 and makes the contributions specified in Section 20677; or (4) become subject to the First Tier retirement formula prescribed by Section 21353 for all past and future state miscellaneous and state industrial service, provided that the member had previously elected coverage pursuant to Section 21076 or 21077 and the member makes the contributions specified in Sections 20677 and 21073. The right of eligible members to elect coverage under the retirement formula of their choice shall apply solely during the above-prescribed one-year period, subject to conditions to be established and communicated by the board.

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Thereafter, and until January 1, 2000, the board shall provide a 30-day period every five years for eligible members to make an irrevocable election to be subject to the Second Tier benefits provided for in Section 21076 or 21077. Eligible members who previously elected Section 21077 may make an irrevocable election to become subject to Section 21076 for all past state miscellaneous and state industrial service during this election period. The first election period shall be held five years from the ending date of the one-year election period specified in this subdivision.

The effective date of any election filed with the board shall be the first of the month following the date the election is received in the system, provided the election meets the conditions set by the board. Any election filed with the board under this subdivision shall also be signed by the spouse of the member and both signatures shall be notarized.

(d) Persons who become state miscellaneous or state industrial members described in this section or who become such members under Article 3 (commencing with Section 20320) of Chapter 3 of this part on or after the Second Tier effective date applicable to the member, shall be subject to Section 21077 unless an election is filed with the board to be subject to Section 21353 and the member makes the contributions specified in Section 20677. The appointing authority shall provide the member with the election form and the member shall exercise the election within one year of becoming a member. The effective date of the election shall be the date on which the member became a state miscellaneous or state industrial member.

(e) A state miscellaneous or state industrial member who, on or after the effective date of an election to be subject to Section 21076 or 21077, ceases to be a member pursuant to Section 20340 or 21075 shall, upon again becoming a state miscellaneous or state industrial member, be subject to Section 21076 or 21077 in accordance with his or her previous irrevocable election. This subdivision does not apply to persons who return to membership as employees of the California State University.

Except as otherwise provided in this part, a state miscellaneous or state industrial member subject to Section 21076 or 21077 is subject to all other provisions applicable to state miscellaneous members except those provisions that provide for the payment of an annuity based on contributions. Notwithstanding any other provision of this part, member contributions are not required for any service credit that is subject to Section 21076.

(f) Notwithstanding any other provision in subdivisions (a) to (e), inclusive, this section does not apply to a state miscellaneous or state industrial member who, on or after January 1, 2000, (1) was first employed by the state, (2) returned to employment with the state from a break in service of more than 90 days, or (3) returned to employment with the state after ceasing to be a member pursuant to Section 20340 or 21075.

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(g) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; amended by Stats. 1986, Ch. 199, effective 6/27/86; by Stats. 1987, Ch. 1164; by Stats. 1988, Ch. 331, effective 7/14/88; Stats. 1989, Ch. 1143; by Stats. 1993, Ch. 358; and by Stats. 1994, Ch. 146; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555.)

§ 21070.5. First Tier for New Hires—January 1, 2000 or Later

(a) Notwithstanding any other provision of this article, a person who, on or after January 1, 2000, becomes a state miscellaneous or state industrial member of the system because the person (1) is first employed by the state, (2) returns to employment with the state from a break in service of more than 90 days, or (3) returns to employment with the state after ceasing to be a member pursuant to Section 20340 or 21075, shall be subject to the benefits provided by Section 21354.1, unless the person elects within 180 days of membership as a state miscellaneous or state industrial member to be subject to the Second Tier benefits provided for in Section 21076 or 21076.5, as applicable. This section shall only apply to state miscellaneous and state industrial members who are (1) excluded from the definition of state employee in subdivision (c) of Section 3513, (2) employed by the executive branch of government and are not members of the civil service, or (3) included in the definition of state employee in subdivision (c) of Section 3513.

(b) The effective date of the election shall be the first day of the month following the date the election is received by the system and shall be applicable to state service rendered on and after that date. Any election filed with the board pursuant to this section shall also be signed by the spouse of the member.

(c) A member who makes an election authorized by this section shall not be precluded from making a subsequent election pursuant to Section 21073.7 to be subject to the benefits provided by Section 21354.1.

(d) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(e) For a member subject to Section 20281.5, the 180-day election period shall not commence until the first day of the first pay period commencing 24 months after becoming a member of the system.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2000, Ch. 135; by Stats. 2004, Ch. 214, effective 8/11/04; and by Stats. 2013, Ch. 526.)

§ 21070.6. Credit for Prior State Service Eligible for Second Tier—January 1, 2000 or Later

(a) A member who is subject to Section 21076, 21076.5, or 21077 may be credited at no cost with all previous state miscellaneous or state industrial service eligible to be credited under Second Tier benefits. A member who is entitled to

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service credit under this section shall apply for and identify time periods for that service to the board.

(b) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(c) This section shall only apply to service credit associated with employment periods prior to July 1, 2013.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2013, Ch. 526.)

§ 21070.7. California National Guard—Second Tier Not Applicable

Notwithstanding any other provision of this part, Sections 21076, 21076.5, and 21077 shall not apply to service with the California National Guard or service as a National Guard member regardless of any prior membership status or previous election made.

(Added by Stats. 2007, Ch. 355; amended by Stats. 2013, Ch. 526.)

§ 21071. Second Tier for New Hires—July 1, 1991 through December 31, 1999

(a) Notwithstanding any other provision of this article, except as provided in subdivisions (b) and (c), persons who first become state miscellaneous or state industrial members of the system on or after July 1, 1991, and who are (1) excluded from the definition of state employee in subdivision (c) of Section 3513, (2) employed by the executive branch of government and are not members of the civil service, or (3) included in the definition of state employee in subdivision (c) of Section 3513 shall become subject to Section 21076.

(b) Any person who was a member on or before June 30, 1991, eligible to elect membership on or before June 30, 1991, or who was employed in any position on or before June 30, 1991, that would lead to membership as a state member, as defined in Section 20370, and who thereafter enters employment subject to Section 21076 shall be granted the rights provided in subdivision (c) of Section 21070, unless the person had earlier made an irrevocable election to be subject to Section 21076 or 21077. The one-year period in which to make the election provided in subdivision (c) of Section 21070 for any member who became a state member prior to January 1, 1994, shall commence with the mailing of a notice by the system to the member of his or her election right. The effective date of the election shall be the date on which the member became a state miscellaneous or state industrial member. The member shall be obligated to make the contributions specified in Section 20677.

(c) Effective on or after April 1, 1998, state miscellaneous or industrial members may elect to be subject to the service retirement formula prescribed in Section 21353.5, as an alternative to Second Tier membership under Section 21076. The election shall be provided to eligible members by the appointing authority, and, to be effective, an election must be filed with the board. Eligible

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members who must be in the employment of the state are defined as members in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to Section 21353.5. The effective date of a member's election shall be the first day of the month following the date the election is filed with the system.

(d) This section shall not apply to state miscellaneous members employed by the California State University or employees described in Section 20324.

(e) This section shall become inoperative on January 1, 2000.

(f) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1991, Ch. 83, effective 6/30/91; amended by Stats. 1993, Ch. 358; and by Stats. 1994, Ch. 146; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1998, Ch. 88, effective 6/30/98; and Ch. 91, effective 7/3/98; by Stats. 1999, Ch. 555; and by Stats. 2000, Ch. 135.)

§ 21072. Credit for Prior State Service Eligible for Second Tier—Through December 31, 1999

(a) A member who elects to be subject to Section 21076 shall be credited at no cost with all creditable previous state miscellaneous or state industrial service after the member is credited with one year of service under Section 21076. A member who was subject to Section 21076, who terminates membership, and who subsequently returns to state service shall be granted, at no cost, all of the service credit earned as a result of the election, after the member is credited with one year of service following return to state service. The one-year requirement shall be waived for a member who meets the service credit requirements for disability retirement specified in Section 21150 with the past creditable service.

(b) A member who elects to be subject to Section 21077, who terminates membership and who subsequently returns to service shall be credited, at no cost, with the service earned as a result of the election, after the member is credited with one year of service following return to state service. The one-year requirement shall be waived for a member who meets the service credit requirements for disability retirement specified in Section 21150 with the past creditable service.

(c) A member who is entitled to service credit under this section shall apply for and identify time periods for that service to the board.

(d) This section shall become inoperative on January 1, 2000.

(e) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; amended by Stats. 1986, Ch. 199, effective 6/27/86; and by Stats. 1988, Ch. 331, effective 7/14/88; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555.)

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§ 21073. Contribution—Election to Receive First Tier Credit—Through December 31, 1999

(a) A member who elects prior to January 1, 2000, to receive service credit under Section 21353, as authorized by subdivision (c) of Section 21070, for time during which he or she was subject to Section 21077, shall contribute in a lump sum or by installments, over that period and subject to minimum payments as may be prescribed by regulations of the board, an amount equal to the contributions he or she would have made had he or she not been subject to Section 21077, plus an amount equal to the interest, to the date of completion of payments, that would have been credited to those contributions.

(b) A member who elects prior to January 1, 2000, to receive service credit under Section 21353, as authorized by subdivision (c) of Section 21070, for time during which he or she received service credit under Section 21076, shall deposit in the retirement fund, subject to the regulations of the board, an amount equal to (1) any accumulated contributions that he or she withdrew pursuant to Section 20737, plus an amount equal to the interest, to the date of completion of payments, that would have been credited to those contributions, and (2) an amount equal to the contributions he or she would have made had he or she not been subject to Section 21076, plus an amount equal to the interest, to the date of completion of payments, that would have been credited to those contributions.

Upon electing, prior to January 1, 2000, to be subject to Section 21353, a member shall return to coverage under that formula without credit for any previous creditable state miscellaneous or industrial service credited at no cost pursuant to Section 21072, unless the member elects to redeposit or to purchase the service as otherwise required in this part, or the member has elected to be subject to Section 21353 solely for service rendered on or after the effective date of the election, as permitted during the one-year period specified in subdivision (c) of Section 21070.

(c) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1988, Ch. 331, effective 7/14/88; amended by Stats. 1989, Ch. 1143; added and renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555.)

§ 21073.1. Contribution—Election to Receive First Tier Credit—January 1, 2000 or Later

(a) Effective January 1, 2000, a member who elects to receive service credit under Section 21354.1, as authorized by Section 21073.7, for time during which the member received service credit subject to Section 21076 or 21077, shall deposit an amount equal to any accumulated contributions the member withdrew pursuant to Section 20737, plus the interest that would have been credited to the member's account had the contributions not been withdrawn,

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and any contributions the member would have made, plus an amount equal to the interest that would have been credited to those contributions, had the member not been subject to Section 21076 or 21077. This deposit shall be made in a lump sum or by installments, with interest through the completion of payments, over that period and subject to minimum payment amounts as may be prescribed by regulations of the board. Alternatively, this deposit requirement may be satisfied by an actuarial equivalent reduction in the member's retirement allowance.

(b) The board, in addition to its general rulemaking authority under Section 20121, may adopt regulations that implement this section. Those regulations shall be exempt from review by the Office of Administrative Law. However, the board shall transmit those regulations to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(c) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21073.5. Contribution—Election to Receive Modified First Tier Credit—Through December 31, 1999

A state Second Tier member, who meets the eligibility definition prescribed in subdivision (c) of Section 21071 may elect to be subject to Section 21353.5 while he or she is in the employment of the state. Upon becoming subject to Section 21353.5, the active member may elect, prior to January 1, 2000, to have his or her past Second Tier service credited under Section 21353.5. A member who elects to receive credit for past service shall pay all reasonable administrative costs and the amount that will be equivalent to the difference between the actuarial present value of the Second Tier service that had accrued to the member's credit and the actuarial present value for the same service had it been credited under Section 21353.5, including interest if deemed necessary, in accordance with the method to be established by the board. The amount shall be contributed in a lump sum or by installments over a period and subject to minimum payments as may be prescribed by regulations of the board. Payments for administrative costs shall be credited to the current appropriation for support of the board and available for expenditures by the board to fund positions deemed necessary by the board to implement this section.

The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1998, Ch. 88, effective 6/30/98; and Ch. 91, effective 7/3/98; amended by Stats. 1999, Ch. 555.)

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§ 21073.6. Election to be Subject to Modified First Tier

(a) The election provided to eligible members pursuant to subdivision (c) of Section 21071, to be subject to the service retirement formula prescribed in Section 21353.5, shall be subject to conditions to be established and communicated by the board.

(b) The election provided to eligible members pursuant to Section 21073.5, to have the member's past Second Tier service credited under Section 21353.5, shall first be available no earlier than January 1, 1999, subject to the election procedures to be established and communicated by the board.

(1) Notwithstanding Section 21073.5 which limits to active members the election provided pursuant to Section 21353.5, this election shall also be provided to a member who retired between the date he or she became eligible under subdivision (c) of Section 21071 and the date the election was actually made available by the board.

(2) Notwithstanding Section 21073.5 which limits to active members the election provided pursuant to Section 21353.5, this election shall also be provided to the beneficiary eligible for a continuing allowance upon the death of a member, provided the member had been determined to be eligible under subdivision (c) of Section 21071 but had died before making the election that would have been provided by the board.

(3) The election provided under paragraph (1) or (2) shall be made within 60 days of the mailing date on the election notice sent by the board to the retired member or the member's beneficiary.

(Added by Stats. 1998, Ch. 88, effective 6/30/98; and Ch. 91, effective 7/3/98.)

§ 21073.7. Election from Second Tier to First Tier; Modified First Tier Subject to First Tier—January 1, 2000

(a) A member subject to the Second Tier benefits provided in Section 21076 or 21077 who is employed by the state on or after January 1, 2000, may make an irrevocable election, to be filed with the board, to be subject to the First Tier benefits provided in Section 21354.1 and to make the contributions specified in Section 20677. An election to be subject to Section 21354.1 may be made at any time prior to retirement and shall be signed by the member's spouse. An election shall be effective the first day of the month following the date the election is received by the system and shall be applicable to state service rendered on and after that date. However an election made by a member who retires prior to or on the first day of the month following the system's receipt of the election shall be effective one day prior to the effective date of the member's retirement.

(b) A member who is employed by the state on or after January 1, 2000, with past service credited under the Second Tier may make an irrevocable election, at any time prior to retirement, to have his or her past Second Tier service credited under Section 21354.1 by making contributions specified in Section 21073.1.

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This subdivision shall not apply to a Second Tier member eligible to make the election provided in subdivision (a) until after the effective date of that election.

(c) A member subject to modified First Tier benefits pursuant to Section 21353.5 shall become subject to Section 21353 or 21354.1, as applicable, and make contributions as specified in Section 20677. The member's past service and contributions credited as modified First Tier under Section 21353.5 shall be converted to First Tier service and contributions and shall be subject to Section 21353 or 21354.1, as applicable. Contributions previously credited as modified First Tier and withdrawn by the member may be redeposited under the conditions specified in Section 20750, with the service credit and contributions subject to Section 21353 or 21354.1, as applicable.

(d) Operation and application of this section is subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2000, Ch. 135; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21074. Eligibility for Service Retirement—Second Tier

(a) A state member who became subject to the Second Tier shall be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with 10 years of state service.

(b) A state member who elected coverage under Section 21077, shall be retired for service upon his or her written application to the board if he or she has attained 50 years of age if subject to Section 21076 and is credited with five years of state service. No benefit shall be payable for service rendered under the Second Tier retirement formula unless the member has rendered 10 years of state service except as provided in subdivision (c).

(c) Notwithstanding subdivision (a) or (b), a state member in the Second Tier who is credited with five years of state service prior to January 1, 1985, may retire with less than 10 years of state service upon his or her written application to the board if he or she has attained age 50.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1421; by Stats. 1959, Ch. 778; by Stats. 1971, Ch. 170; by Stats. 1972, Ch. 1098, operative 4/1/73; by Stats. 1980, Ch. 1168, effective 9/29/80; by Stats. 1984, Ch. 674, effective 8/18/84; by Stats. 1989, Ch. 1143; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1997, Ch. 951; and by Stats. 2014, Ch. 237.)

§ 21075. Membership Ceases—Less than 10 Years of Service

Notwithstanding Section 20340, a person who is subject to Section 21076, 21076.5, or Section 21077 ceases to be a member if he or she has less than 10 years of service credit and no accumulated contributions in the retirement fund at

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the time of termination of service, except a member who had five years of credited service prior to January 1, 1985.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2014, Ch. 237.)

§ 21076. 1.25% at Age 65 Benefit Formula—Second Tier—Member on or before December 31, 2012

(a) The service retirement allowance for a state miscellaneous or state industrial member who has elected the benefits of this section is a pension equal to the fraction of one-hundredth 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 member's number of years of state miscellaneous service:

Age at Retirement	Fraction
50	0.5000
50 1/4	0.5125
50 1/2	0.5250
50 3/4	0.5375
51	0.5500
51 1/4	0.5625
51 1/2	0.5750
51 3/4	0.5875
52	0.6000
52 1/4	0.6125
52 1/2	0.6250
52 3/4	0.6375
53	0.6500
53 1/4	0.6625
53 1/2	0.6750
53 3/4	0.6875
54	0.7000
54 1/4	0.7125
54 1/2	0.7250
54 3/4	0.7375
55	0.7500
55 1/4	0.7625
55 1/2	0.7750
55 3/4	0.7875
56	0.8000
56 1/4	0.8125
56 1/2	0.8250
56 3/4	0.8375
57	0.8500
57 1/4	0.8625

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Age at Retirement	Fraction
57 1/2	0.8750
57 3/4	0.8875
58	0.9000
58 1/4	0.9125
58 1/2	0.9250
58 3/4	0.9375
59	0.9500
59 1/4	0.9625
59 1/2	0.9750
59 3/4	0.9875
60	1.0000
60 1/4	1.0125
60 1/2	1.0250
60 3/4	1.0375
61	1.0500
61 1/4	1.0625
61 1/2	1.0750
61 3/4	1.0875
62	1.1000
62 1/4	1.1125
62 1/2	1.1250
62 3/4	1.1375
63	1.1500
63 1/4	1.1625
63 1/2	1.1750
63 3/4	1.1875
64	1.2000
64 1/4	1.2125
64 1/2	1.2250
64 3/4	1.2375
65	1.2500

(b) This section shall not apply to a National Guard member.

(c) This section shall not apply to anyone who first becomes a member on or after January 1, 2013.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; amended by Stats. 1986, Ch. 199, effective 6/27/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2007, Ch. 355; and by Stats. 2012, Ch. 296.)

§ 21076.5 1.25% at Age 67 Benefit Formula—Second Tier—New Member on and after January 1, 2013

(a) The service retirement allowance for a state miscellaneous or state industrial member who first becomes a member on or after January 1, 2013, who has elected

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the benefits of this section is a pension equal to the fraction of one-hundredth 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 member's number of years of state miscellaneous service:

Age at Retirement	Fraction
52	0.6500
52 1/4	0.6600
52 1/2	0.6700
52 3/4	0.6800
53	0.6900
53 1/4	0.7000
53 1/2	0.7100
53 3/4	0.7200
54	0.7300
54 1/4	0.7400
54 1/2	0.7500
54 3/4	0.7600
55	0.7700
55 1/4	0.7800
55 1/2	0.7900
55 3/4	0.8000
56	0.8100
56 1/4	0.8200
56 1/2	0.8300
56 3/4	0.8400
57	0.8500
57 1/4	0.8600
57 1/2	0.8700
57 3/4	0.8800
58	0.8900
58 1/4	0.9000
58 1/2	0.9100
58 3/4	0.9200
59	0.9300
59 1/4	0.9400
59 1/2	0.9500
59 3/4	0.9600
60	0.9700
60 1/4	0.9800
60 1/2	0.9900
60 3/4	1.0000
61	1.0100
61 1/4	1.0200
61 1/2	1.0300
61 3/4	1.0400

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Age at Retirement	Fraction
62	1.0500
62 1/4	1.0600
62 1/2	1.0700
62 3/4	1.0800
63	1.0900
63 1/4	1.1000
63 1/2	1.1100
63 3/4	1.1200
64	1.1300
64 1/4	1.1400
64 1/2	1.1500
64 3/4	1.1600
65	1.1700
65 1/4	1.1800
65 1/2	1.1900
65 3/4	1.2000
66	1.2100
66 1/4	1.2200
66 1/2	1.2300
66 3/4	1.2400
67	1.2500

(b) This section shall not apply to a National Guard member.

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

§ 21077. Calculation of Retirement Allowance—First and Second Tier Service

(a) The service retirement allowance for a state miscellaneous or state industrial member who elects to be subject to this section shall be: the sum of the allowance for service rendered under the Second Tier retirement formula, computed pursuant to Section 21076, added to the allowance for service rendered as a state miscellaneous or state industrial member covered under the First Tier formula, computed pursuant to Section 21353 or 21354.1, as applicable.

(b) This section shall not apply to a National Guard member.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; amended by Stats. 1986, Ch. 199, effective 6/27/86; and by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1999, Ch. 555; and by Stats. 2007, Ch. 355.)

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ARTICLE 2.1. STATE PEACE OFFICERS' AND FIREFIGHTERS' DEFINED CONTRIBUTION PLAN (SEE INSTEAD PART 7 COMMENCING WITH § 22960)

§ 21078. Repealed

(Repealed by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 21078.1. Repealed

(Repealed by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 21078.2. Repealed

(Repealed by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 21078.3. Repealed

(Repealed by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 21078.4. Repealed

(Repealed by Stats. 1998, Ch. 820, effective 9/25/98.)

ARTICLE 3. SECOND TIER RETIREMENT—CONTRACTING AGENCIES

§ 21090. Establishment of Second Tier—Contracting Agency

(a) The governing body of a contracting agency may establish a two-tiered retirement system developed by the board.

(b) It is the intent of the Legislature to make a two-tiered retirement system a matter for bargaining pursuant to provisions of law relating to employer-employee relations.

(Added by Stats. 1982, Ch. 327, effective 6/30/82; amended by Stats. 1984, Ch. 346; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21091. Contract Amendment to Provide Second Tier

(a) Contracting agencies as defined in Section 20022, some or all of whose employees are miscellaneous members included in the federal system, may amend their contracts with the board to provide an alternate level of benefits pursuant to this article. The alternate level of benefits shall be provided to all local miscellaneous members of a contracting agency whose services are also covered under the federal system who first become members of this system on and after the contract amendment effective date and shall be made available by election to eligible members also covered under the federal system who were employees of

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the contracting agency prior to the effective date of the employer's contract amendment as specified in Section 21099.

(b) This article shall not apply to any agency with a memorandum of understanding that precludes any changes in the retirement coverage of the employee bargaining unit subject to that agreement.

(Added by Stats. 1993, Ch. 61; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21092. Local Member Contributions

(a) The normal rate of contribution for a local miscellaneous member subject to this article shall be 2 percent of compensation paid the member. A contracting agency may pay all or a portion of the member's normal contributions, pursuant to Section 20691.

(b) Notwithstanding subdivision (a), a new member, as defined in Section 7522.04, shall have a contribution rate of at least 50 percent of the normal cost, pursuant to Section 7522.30.

(Added by Stats. 1993, Ch. 61; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2013, Ch. 526.)

§ 21093. Application for Retirement

(a) Except as provided in subdivision (b), a local miscellaneous member subject to this article may be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with five years of service.

(b) Any person who was a member of this system prior to the effective date of the employer's contract amendment to be subject to this article, and who elects to become subject to this article, may be retired for service upon his or her written application to the board if he or she has attained age 50 and is credited with five years of combined service.

(Added by Stats. 1993, Ch. 61; renumbered by Stats. 1995, Ch. 379.)

§ 21094. "Final Compensation"

(a) The service retirement allowance for a local miscellaneous member subject to this article shall be calculated in accordance with Section 21100.

(b) "Final compensation" for purposes of determining any benefits payable under this part for any local miscellaneous member service subject to this article shall be as defined by Section 20037 and shall not be reduced by any fraction or amount due to the inclusion in the federal system.

(Added by Stats. 1993, Ch. 61; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379.)

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§ 21095. Member Election to Participate

(a) Participation in the plan afforded by this article shall be made available to any employee who was included in the federal system and who was a member of this system prior to the effective date of the employer's contract amendment to be subject to this article. The election shall be irrevocable, shall be effective on the first day of the pay period following the member's election, and shall apply to all future service rendered by the member with that agency. Each contracting agency shall ensure each eligible member receives sufficient information to permit an informed election, is counseled regarding the benefits provided by this article, and receives an election document. The election document shall be filed with the contracting agency, and the contracting agency shall report the member's irrevocable election to the board.

(b) A member subject to this article shall be subject to all other provisions of this part. However, in the event of a conflict, this article shall supersede and prevail over other provisions contained in this part.

(Added by Stats. 1993, Ch. 61; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 538.)

§ 21096. Employer Contributions

The employer contribution rate of a contracting agency subject to this article shall be determined by the board as otherwise provided by this part.

(Added by Stats. 1993, Ch. 61; renumbered by Stats. 1995, Ch. 379.)

§ 21097. Annual Cost-of-Living Adjustment

(a) The monthly allowances payable to members based on service subject to this article shall be annually adjusted pursuant to Section 21329.

(b) The percentage of the amount of his or her retirement allowance as it was at his or her death payable based on service credited to him or her as a member subject to Section 21624, for a member subject to this article, shall be 25 percent.

(Added by Stats. 1993, Ch. 61; amended by Stats. 1994, Ch. 636; renumbered by Stats. 1995, Ch. 379.)

§ 21098. Disability Retirement

The disability retirement pension for local miscellaneous service subject to this article shall be one of the following:

(a) Ninety percent of the factor applicable at age 65 as set forth in Section 21094 times final compensation multiplied by the number of years of service credited to him or her.

(b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of the benefit that would be payable to the member had the member continued in employment until

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age 65 but in that case the retirement allowance shall not exceed one-third of the final compensation. This subdivision is not applicable to members who are not entitled, at the time of retirement, to be credited with at least 10 years of service.

(c) If the disability retirement allowance is derived from this section and Section 21423, and would otherwise exceed the maximums provided by these sections, the pension payable with respect to each section shall be reduced in the same proportion as the allowance computed as though there was no limit, so that the total of the pensions shall equal the maximum allowed.

(Added by Stats. 1993, Ch. 61; renumbered by Stats. 1995, Ch. 379.)

§ 21099. Applicability of Article

This article shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this article with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this article.

(Added by Stats. 1993, Ch. 61; renumbered by Stats. 1995, Ch. 379.)

§ 21100. 1.5% at Age 65 Benefit Formula—Second Tier

(a) The service retirement allowance for a local miscellaneous member who is subject to this article is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-hundredth 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 member's number of years of local miscellaneous service subject to this article:

Age at Retirement	Fraction
50	.5000
50 1/4	.5167
50 1/2	.5334
50 3/4	.5500
51	.5667
51 1/4	.5834
51 1/2	.6000
51 3/4	.6167
52	.6334
52 1/4	.6500

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Age at Retirement	Fraction
52 1/2	.6667
52 3/4	.6834
53	.7000
53 1/4	.7167
53 1/2	.7334
53 3/4	.7500
54	.7667
54 1/4	.7834
54 1/2	.8000
54 3/4	.8167
55	.8334
55 1/4	.8500
55 1/2	.8667
55 3/4	.8834
56	.9000
56 1/4	.9167
56 1/2	.9334
56 3/4	.9500
57	.9667
57 1/4	.9834
57 1/2	1.0000
57 3/4	1.0167
58	1.0334
58 1/4	1.0500
58 1/2	1.0667
58 3/4	1.0834
59	1.1000
59 1/4	1.1167
59 1/2	1.1334
59 3/4	1.1500
60	1.1667
60 1/4	1.1834
60 1/2	1.2000
60 3/4	1.2167
61	1.2334
61 1/4	1.2500
61 1/2	1.2667
61 3/4	1.2834
62	1.3000
62 1/4	1.3167
62 1/2	1.3334
62 3/4	1.3500
63	1.3667
63 1/4	1.3834
63 1/2	1.4000

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Age at Retirement	Fraction
63 3/4	1.4167
64	1.4334
64 1/4	1.4500
64 1/2	1.4667
64 3/4	1.4834
65	1.5000

(b) The service retirement allowance for a local miscellaneous member who, pursuant to Section 21095, elects to be subject to this article shall be the sum of the allowance for service rendered subsequent to the effective date of the election computed pursuant to subdivision (a) of this section, added to the allowance for service rendered as a local miscellaneous member prior to the effective date of the election, computed pursuant to the formula specified in the employer's contract with the board.

(Added by Stats. 1993, Ch. 61; amended by Stats. 1994, Ch. 408; repealed and added by Stats. 1995, Ch. 379.)

ARTICLE 4. REDUCED WORKTIME FOR PARTIAL SERVICE RETIREMENT

§ 21110. Legislative Intent

It is the intent of the Legislature that reduced worktime for partial service retirement may, at the discretion of a public agency employer, be made available to public agency employees eligible pursuant to Section 21111 who do not desire to work standard working hours on a full-time basis.

(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21111. Election to Participate—Local Member

Any public agency employee, who is a local member of this system working standard hours on a full-time basis, and who is eligible to retire pursuant to Section 21118, may elect to participate in reduced worktime for partial service retirement pursuant to Sections 21110 through 21115.

(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21112. "Reduced Worktime for Partial Service Retirement"

"Reduced worktime for partial service retirement" means any arrangement of worktime agreeable to both the public agency employer and the employee that aggregates no less, on a monthly basis, than a 20 percent reduction nor more than a 60 percent reduction from what would in that position be considered full-time employment, combined with the concurrent payment of proportionally reduced compensation and proportionally reduced retirement benefits.

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(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21113. Return to Full-Time after Reduced Worktime

(a) A public agency employee who voluntarily reduces his or her worktime for partial service retirement pursuant to Sections 21110 through 21115, and who subsequently returns to a full-time work schedule pursuant to the policy of the public agency employer, shall be ineligible for five years thereafter to again participate pursuant to those sections. The public agency employer may require a participating employee to return to full-time employment only in the event of an emergency requiring his or her full-time service.

(b) A public agency employee who is participating pursuant to Sections 21110 through 21115 in reduced worktime for partial service retirement may: (1) elect only once in each fiscal year to further reduce his or her worktime; (2) elect only once in five years to increase his or her worktime to another less than full-time schedule.

(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21114. Proportionally Reduced Compensation and Benefits

All persons employed in reduced worktime positions for partial service retirement pursuant to Sections 21110 through 21115 shall receive proportionally reduced compensation and, on a pro rata basis, all benefits customarily available to full-time employees of a public agency in similar classes or positions in accordance with the personnel policies of the public agency employer or pursuant to provisions of a memorandum of understanding reached pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.

(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21115. Employer Election of Reduced Worktime

A public agency employer may elect to make Sections 21110 through 21115 applicable to the agency and if it does so, the public agency employer shall establish other personnel policies or guidelines required for the administration of the reduced worktime for partial retirement program within the agency.

(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21116. Membership Status—State Miscellaneous or Local Members

Except as otherwise expressly provided, and notwithstanding Section 20060, state miscellaneous members participating in reduced worktime for partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or local members participating in reduced worktime for partial service retirement pursuant to Sections 21110 through 21115, shall be considered members and shall not be considered retired, until they elect to become fully retired.

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(Added by Stats. 1983, Ch. 1258, effective 9/30/83, operative 1/1/84; amended by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21117. Application for Partial Service Retirement—State Miscellaneous or Industrial Member

A state miscellaneous member or industrial member, other than a university member, shall be partially retired for service upon his or her written application to the board if he or she has elected to participate in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6, and has attained the applicable normal retirement age as prescribed by regulations of the board.

(Added by Stats. 1983, Ch. 1258, effective 9/30/83, operative 1/1/84; amended by Stats. 1989, Ch. 752; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118; and by Stats. 2009, Ch. 130.)

§ 21117.5. Not Eligible for Partial Service Retirement—National Guard Member

Notwithstanding any other provision of law, a person who is solely a National Guard member shall not be partially retired for service, nor shall service with the California National Guard be used to qualify for benefits as described in Section 21117.

(Added by Stats. 2007, Ch. 355.)

§ 21118. Application for Partial Service Retirement—Local Member

(a) A local member shall be partially retired for service upon his or her written application to the board if he or she has elected to participate in partial service retirement pursuant to Sections 21110 through 21115, provided he or she has attained the applicable normal retirement age as prescribed by regulations of the board.

(b) This section shall not apply to a contracting agency or its employees until the contracting agency elects to be subject to it by amendment to its contract made in a manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118; and by Stats. 2009, Ch. 130.)

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§ 21119. COLA Inapplicable to Partial Service Retirement

Article 3 (commencing with Section 21310) of Chapter 13, relating to cost-of-living adjustments, shall not apply to an employee who is participating in reduced worktime for partial service retirement.

(Added by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21120. Alternate Death Benefit Inapplicable to Partial Service Retirement—Contracting Agency

Section 21546 shall apply to any member while in state service in partial service retirement.

(Added by Stats. 1983, Ch. 1258; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 5. COMPULSORY RETIREMENT

§ 21130. Mandatory Retirement at Age 60—Patrol Member—Prior to 1/1/2018

(a) Except as provided in subdivision (b), every patrol member subject to Section 21362, 21362.2, or 21363.1, as applicable, shall be retired on the first day of the calendar month succeeding that in which he or she attains the age of 60 years.

(b) Subdivision (a) does not apply to a Commissioner of the California Highway Patrol, as specified in Section 2107 of the Vehicle Code, appointed on or after January 1, 2008.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1968, Ch. 960; and by Stats. 1985, Ch. 1067, effective 9/27/85; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555; and by Stats. 2011, Ch. 440; amended and repealed by Stats. 2013, Ch. 778.)

§ 21130. Mandatory Retirement at Age 60—Patrol Member—On or after 1/1/2018

(a) Every patrol member subject to Section 21362, 21362.2, or 21363.1, as applicable, shall be retired on the first day of the calendar month succeeding that in which he or she attains the age of 60 years.

(b) This section shall be operative January 1, 2018.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1968, Ch. 960; and by Stats. 1985, Ch. 1067, effective 9/27/85; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555; and by Stats. 2011,

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Ch. 440; amended and repealed by Stats. 2013, Ch. 778; added by Stats. 2013, Ch. 778.)

§ 21131. Set Mandatory Retirement Age for Local Safety

Notwithstanding any other provision of law, a local contracting agency may amend its contract to fix a mandatory retirement age for local safety members attaining the age of 60 when the agency also has established that the age of a safety member is a bona fide occupational qualification reasonably necessary to the normal operation of the principal services provided by safety members.

(Added by Stats. 1970, Ch. 307; amended by Stats. 1977, Ch. 928 and Ch. 1071, effective 9/26/77; and by Stats. 1985, Ch. 1067, effective 9/27/85; renumbered by Stats. 1995, Ch. 379.)

§ 21132. Mandatory Retirement at Age 65—State Safety Member

Every state safety member shall be retired on the first day of the calendar month succeeding that in which he or she attains age 65. Every member who has attained age 65 when he or she becomes a state safety member shall be retired on the first day of the following month.

This section shall not apply to members represented by State Bargaining Unit 16 or State Bargaining Unit 19.

(Added by Stats. 1945, Ch. 1421; amended by Stats. 1972, Ch. 1098, operative 4/1/73; and by Stats. 1994, Ch. 115; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 237, effective 9/13/06.)

ARTICLE 6. DISABILITY RETIREMENT

§ 21150. Service Credit Required

(a) A member incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he or she is credited with five years of state service, regardless of age, unless the person has elected to become subject to Section 21076, 21076.5, or 21077.

(b) A member subject to Section 21076, 21076.5, or 21077 who becomes incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he or she is credited with 10 years of state service, regardless of age, except that a member may retire for disability if he or she had five years of state service prior to January 1, 1985.

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

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186; by Stats. 1955, Ch. 1411; by Stats. 1971, Ch. 170, operative 7/1/71; and by Stats. 1984,

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Ch. 674, effective 8/17/84; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118; by Stats. 2007, Ch. 130; and by Stats. 2013, Ch. 526.)

§ 21151. Applicability—Specified State Member or Local Safety Member

(a) Any patrol, state safety, state industrial, state peace officer/firefighter, or local safety member incapacitated for the performance of duty as the result of an industrial disability shall be retired for disability, pursuant to this chapter, regardless of age or amount of service.

(b) This section also applies to local miscellaneous members if the contracting agency employing those members elects to be subject to this section by amendment to its contract.

(c) This section also applies to all of the following:

(1) State miscellaneous members employed by the Department of Justice who perform the duties now performed in positions with the class title of Criminalist (Class Code 8466), or Senior Criminalist (Class Code 8478), or Criminalist Supervisor (Class Code 8477), or Criminalist Manager (Class Code 8467), Latent Print Analyst I (Class Code 8460), Latent Print Analyst II (Class Code 8472), or Latent Print Supervisor (Class Code 8473).

(2) State miscellaneous members employed by the Department of the California Highway Patrol who perform the duties now performed in positions with the class title of Communications Operator I, California Highway Patrol (Class Code 1663), Communications Operator II, California Highway Patrol (Class Code 1664), Communications Supervisor I, California Highway Patrol (Class Code 1662), or Communications Supervisor II, California Highway Patrol (Class Code 1665).

(3) State miscellaneous members whose disability resulted under the conditions specified in Sections 20046.5 and 20047.

(4) State miscellaneous members in State Bargaining Unit 12 employed by the Department of Transportation, if a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this paragraph applicable to those members.

(d) This section does not apply to local safety members described in Section 20423.6, unless this section has been made applicable to local miscellaneous members pursuant to subdivision (b).

(e) This section does not apply to state safety members described in Section 20401.5.

(Added by Stats. 1945, Ch. 123; by Stats. 1963, Ch. 2031; repealed by Stats. 1972, Ch. 1098; added by Stats. 1973, Ch. 1192; and by Stats. 1982, Ch. 1425, effective 9/27/82; amended by Stats. 1970, Ch. 1361; by Stats. 1971, Ch. 170; by Stats. 1972, Ch. 1098; by Stats. 1974, Ch. 1439; by Stats. 1984, Ch. 280, effective 7/1/84; and Ch. 1320, effective 9/24/84; by Stats. 1986, Ch. 385, effective 7/17/86; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1992,

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Ch. 103, effective 6/30/92; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 1997, Ch. 951; amended by Stats. 2002, Ch. 1152 and Ch. 1153; and by Stats. 2005, Ch. 328.)

§ 21152. Application for Retirement

Application to the board for retirement of a member for disability may be made by:

(a) The head of the office or department in which the member is or was last employed, if the member is a state member other than a university member.

(b) The university if the member is an employee of the university.

(c) The governing body, or an official designated by the governing body, of the contracting agency, if the member is an employee of a contracting agency.

(d) The member or any person in his or her behalf.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612, operative 10/1/51; repealed and added by Stats. 1995, Ch. 379.)

§ 21153. Application by Employer for Disability for Employee

Notwithstanding any other provision of law, an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any 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 Section 20731.

(Added by Stats. 1970, Ch. 1447; repealed and added by Stats. 1995, Ch. 379.)

§ 21154. Application Requirements

The application shall be made only (a) while the member is in state service, or (b) while the member for whom contributions will be made under Section 20997, is absent on military service, or (c) within four months after the discontinuance of the state service of the member, or while on an approved leave of absence, or (d) while the member is physically or mentally incapacitated to perform duties from the date of discontinuance of state service to the time of application or motion. On receipt of an application for disability retirement of a member, other than a local safety member with the exception of a school safety member, the board shall, or of its own motion it may, order a medical examination of a member who is otherwise eligible to retire for disability to determine whether the member is incapacitated for the performance of duty. On receipt of the application with respect to a local safety member other than a school safety member, the board shall request the governing body of the contracting agency employing the member to make the determination.

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(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 1680; by Stats. 1967, Ch. 885; by Stats. 1975, Ch. 655; by Stats. 1980, Ch. 481; and by Stats. 1990, Ch. 658, effective 9/9/90; repealed and added by Stats. 1995, Ch. 379.)

§ 21155. Medical Examination Expenses

If the board requests a person to submit to a medical examination, he or she shall be entitled to reimbursement for expenses of transportation, and meals and lodging incident to the examination if he or she is required to travel more than 50 miles one way. Standard per diem rates in effect for state employees as authorized by current law shall be used for the reimbursement; provided, that higher costs of lodging may be paid if supported by receipt and determined necessary by the board. "Expenses of transportation" with respect to the use of private transportation includes mileage fees from the person's home to the place of examination and back to a maximum of 300 miles round trip or within the state at the appropriate current rate per mile authorized to state employees for use of private vehicles in accordance with current law plus bridge tolls. The per diem and mileage may be paid to the person by this system at the time he or she is given notification of the time and place of examination.

(Added by Stats. 1974, Ch. 1362; amended by Stats. 1978, Ch. 799; by Stats. 1984, Ch. 1279; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 907.)

§ 21156. Determination of Disability

(a) (1) If the medical examination and other available information show to the satisfaction of the board, or in case of a local safety member, other than a school safety member, the governing body of the contracting agency employing the member, that the member in the state service is incapacitated physically or mentally for the performance of his or her duties and is eligible to retire for disability, the board shall immediately retire him or her for disability, unless the member is qualified to be retired for service and applies therefor prior to the effective date of his or her retirement for disability or within 30 days after the member is notified of his or her eligibility for retirement on account of disability, in which event the board shall retire the member for service.

(2) In determining whether a member is eligible to retire for disability, the board or governing body of the contracting agency shall make a determination on the basis of competent medical opinion and shall not use disability retirement as a substitute for the disciplinary process.

(b) (1) The governing body of a contracting agency upon receipt of the request of the board pursuant to Section 21154 shall certify to the board its determination under this section that the member is or is not incapacitated.

(2) The local safety member may appeal the determination of the governing body. Appeal hearings shall be conducted by an administrative law judge of the

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Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186; by Stats. 1975, Ch. 655; by Stats. 1978, Ch. 799; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1991, Ch. 1159; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118; and by Stats. 2008, Ch. 370.)

§ 21157. Determination by Governing Body of Contracting Agency

The governing body of a contracting agency shall make its determination within six months of the date of the receipt by the contracting agency of the request by the board pursuant to Section 21154 for a determination with respect to a local safety member.

A local safety member may waive the requirements of this section.

(Added by Stats. 1983, Ch. 1202; amended by Stats. 1989, Ch. 485; repealed and added by Stats. 1995, Ch. 379.)

§ 21158. Information Required for Determination

Upon the receipt by the board of an application for disability retirement with respect to a state peace officer/firefighter member, state patrol member, or a state safety member, the board shall inform both the employer and the member of all information required for the board to make its determination. The board shall make its determination within three months of the receipt by the board of all information required to make a determination for disability retirement on an application submitted by a state peace officer/firefighter member, state patrol member, or a state safety member for disability retirement pursuant to this article.

(Added by Stats. 1991, Ch. 1095; repealed and added by Stats. 1995, Ch. 379.)

§ 21159. Industrial Disability Retirement Prior to 2000—State Member

(a) Notwithstanding any other provision of law, a state member shall not be retired for industrial disability for an illness or injury that occurs on or after January 1, 1993, unless the member is incapacitated for the performance of duty in any employment with the state employer and the disability is of permanent or extended and uncertain duration, as determined by the Department of Human Resources. This section shall only apply to state safety, state industrial, and state miscellaneous members employed in any state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section. The Director of Human Resources may adopt rules regarding job placement and other related activities necessary for the administration of this section and Section 21195.

(b) A state member who, because of the enactment of this section is no longer eligible to retire for industrial disability and accepts alternate employment with the

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state in which the compensation is less than that received in the position held at the time of the illness or injury, shall, upon certification of the Department of Human Resources to the board, become entitled to benefits under the partial disability retirement program set forth in Section 21160.

(c) The employee shall have the right of appeal to the Department of Human Resources regarding: (1) the requirement to participate or (2) the exclusion from participating in the program described in this section and Section 21160.

(d) For all other disputes relative to this section and Section 21160, the employee shall seek administrative remedy from his or her appointing power through the departmental complaint process.

(e) The appointing power of the affected employee shall reimburse the Department of Human Resources for any costs associated with the administration of this provision.

(f) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

(Added by Stats. 1992, Ch. 103, effective 6/30/92; amended by Stats. 1993, Ch. 513; renumbered by Stats. 1995, Ch. 379, amended by Stats. 2000, Ch. 402, effective 9/11/00; and by Stats. 2012, Ch. 665.)

§ 21160. Partial Disability Retirement Prior to 2000—State Member

(a) Any state member who is subject to Section 21159 and does not qualify for industrial disability retirement under this part, or is reinstated from industrial disability retirement pursuant to Section 21195, and accepts another job in state service, shall be paid a partial disability retirement program benefit payment from this system in an amount, to be calculated by the Department of Human Resources and certified to the board, that, when added to the salary earned by the employee in the current state position, would be equal to the state salary earned by the member at the time of becoming unable to perform the duties of his or her previous position. This supplemental payment shall not result in the member being deemed to be retired.

(b) The partial disability retirement program benefit payments made under this section shall be paid for by the state employer in the same manner as all other state retirement benefits are funded.

(c) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

(Added by Stats. 1992, Ch. 103, effective 6/30/92; amended by Stats. 1993, Ch. 513; renumbered by Stats. 1995, Ch. 379, amended by Stats. 2000, Ch. 402, effective 9/11/00; and by Stats. 2012, Ch. 665.)

§ 21161. Partial Disability Benefits Excluded from Compensation—State Employee

(a) A partial disability retirement program is established by Section 21160 for state employees subject to Section 21159. The benefits paid under this program shall be paid pursuant to Sections 21159 and 21160 and shall not be considered compensation for purposes of Section 20630.

(b) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

(Added by Stats. 1993, Ch. 513; renumbered by Stats. 1995, Ch. 379, amended by Stats. 2000, Ch. 402, effective 9/11/00.)

§ 21162. Disability Retirement—Member of Other Public Retirement System

A member whose membership continues under Section 20731 shall be retired for disability and receive a retirement allowance based on the service credited to him or her at the time of retirement during any period in which he or she receives a disability retirement allowance under a county retirement system, subject to the following conditions:

(a) That the allowance shall not be paid if entry into employment resulting in membership of the county system occurred prior to October 1, 1957, or after more than 90 days of discontinuance of state service.

(b) That the allowance shall not exceed an amount that, when added to the allowance paid under the other system, equals the allowance that would be paid if the member's state service were credited under the other system where retirement is for disability not arising out of or in the course of employment subject to the other system. However, the allowance shall in any event be no less than an annuity that is the actuarial equivalent of member's contributions.

(c) That the allowance shall be an annuity that is the actuarial equivalent of accumulated contributions where retirement under the other system is for disability arising out of and in the course of employment subject to the other system.

(Added by Stats. 1957, Ch. 2399; amended by Stats. 1959, Ch. 776; and by Stats. 1980, Ch. 1102; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21163. Expiration of Sick Leave and CTO Before Disability Retirement Effective

Notwithstanding any other provision of this article, the retirement of a member who has been granted or is entitled to sick leave or who is entitled to compensating time off for overtime, shall not become effective until the expiration of the sick leave with compensation and the expiration of the compensating time

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off with compensation, unless the member applies for or consents to his or her retirement as of an earlier date, or unless, with respect to sick leave, the provisions of a local ordinance or resolution or the rules or regulations of the employer provide to the contrary. This section shall also be applicable to a state member who participates in the annual leave program and who has been granted annual leave for the reasons applicable to sick leave.

(Added by Stats. 1957, Ch. 2366; amended by Stats. 1978, Ch. 646; and by Stats. 1991, Ch. 1108, effective 10/14/91; renumbered by Stats. 1995, Ch. 379.)

§ 21164. Disability Retirement Effective Date—Local Safety Member

Notwithstanding any other provision of this article, the retirement for disability of a local safety member, other than a school safety member, shall not be effective without the member's consent earlier than the date upon which leave of absence without loss of salary under Section 4850 of the Labor Code because of the disability terminates, or the earlier date during the leave as of which the disability is permanent and stationary as found by the Workers' Compensation Appeals Board.

(Added by Stats. 1975, Ch. 655; amended by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379.)

§ 21165. Expiration of Compensated Leave Before Disability Retirement Effective

Notwithstanding any other provision of this article, the retirement for disability of a member, other than a local safety member, with the exception of a school safety member, who has been granted or is entitled to a leave of absence with compensation, which shall include nonindustrial disability insurance benefits payable pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6, shall not become effective prior to the expiration of the leave of absence with compensation, unless the member applies for or consents to his or her retirement as of an earlier date.

(Added by Stats. 1953, Ch. 876; amended by Stats. 1975, Ch. 655; by Stats. 1978, Ch. 1180, effective 9/26/78; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379.)

§ 21166. Industrial Causation Disputed—Workers' Compensation Appeals Board

If a member is entitled to a different disability retirement allowance according to whether the disability is industrial or nonindustrial and the member claims that the disability as found by the board, or in the case of a local safety member by the governing body of his or her employer, is industrial and the claim is disputed by the board, or in case of a local safety member by the governing body, the

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Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall determine whether the disability is industrial.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 1140; by Stats. 1965, Ch. 1513 and Ch. 1599; by Stats. 1968, Ch. 449; by Stats. 1975, Ch. 655; and by Stats. 1979, Ch. 786; renumbered by Stats. 1995, Ch. 379.)

§ 21167. Petition for Rehearing

At any time within 20 days after the service of any findings of fact by the Workers' Compensation Appeals Board under this part, any party aggrieved thereby, or the board, may petition for a rehearing upon one or more of the following grounds, and no other:

(a) That the Workers' Compensation Appeals Board acted without or in excess of its powers.

(b) That the findings of fact were procured by fraud.

(c) That the evidence does not justify the findings of fact.

(d) That the petitioner has discovered new evidence material to him or her, that he or she could not, with reasonable diligence, have discovered and produced at the hearing.

(Added by Stats. 1945, Ch. 1295; amended by Stats. 1947, Ch. 1140; and by Stats. 1965, Ch. 1513, operative 1/15/66; renumbered by Stats. 1995, Ch. 379.)

§ 21168. Application for Writ of Review

Within 30 days after the petition for rehearing is denied, or, if the petition is granted, within 30 days after the rendition of amended findings of fact on rehearing, any person affected thereby, including this system, may apply to the Supreme Court or to the court of appeal of the appellate district in which he or she resides, for a writ of review, for the purpose of inquiring into and determining the lawfulness of the findings of the Workers' Compensation Appeals Board.

(Added by Stats. 1947, Ch. 1140; amended by Stats. 1965, Ch. 1513; and by Stats. 1967, Ch. 17; renumbered by Stats. 1995, Ch. 379.)

§ 21169. Writ of Review Returnable

The writ of review shall be made returnable not later than 30 days after the date of issuance thereof, and shall direct the Workers' Compensation Appeals Board to certify its record in the case to the court. On the return day the cause

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shall be heard in the court unless continued for good cause. No new or additional evidence shall be introduced in the court, but the cause shall be heard on the record of the appeals board, as certified to by it.

(Added by Stats. 1947, Ch. 1140; amended by Stats. 1965, Ch. 1513; renumbered by Stats. 1995, Ch. 379.)

§ 21170. Scope of Review by the Court

The review by the court shall not be extended further than to determine whether the Workers' Compensation Appeals Board acted without or in excess of its powers, or unreasonably, or whether its act was procured by fraud.

(Added by Stats. 1947, Ch. 1140; amended by Stats. 1965, Ch. 1513; renumbered by Stats. 1995, Ch. 379.)

§ 21171. Continuing Jurisdiction—Workers' Compensation Appeals Board

The Workers' Compensation Appeals Board shall have continuing jurisdiction over its determinations made under Section 21166 and may at any time within five years of the date of injury, upon notice and after an opportunity to be heard is given to the parties in interest, rescind, alter, or amend the determination, good cause appearing therefor.

(Added by Stats. 1957, Ch. 936; amended by Stats. 1965, Ch. 1513; renumbered by Stats. 1995, Ch. 379.)

§ 21172. Cancellation of Allowance for Other than Reentry into State Service

If the retirement allowance of any person retired for disability is canceled for any cause other than reentrance into state service, and if he or she does not reenter state service, an amount that is the actuarial equivalent of his or her annuity at cancellation, based on a disabled life, but not exceeding the amount of his or her accumulated contributions at the time of his or her retirement for disability, shall be credited to his or her individual account, and shall be refunded to him or her unless he or she elects, under Section 20731, to allow his or her accumulated contributions to remain in the retirement fund.

The actuarial equivalent under this section shall be adjusted by the board every 10 years, or more frequently, to agree with the interest rate and mortality tables in effect at the commencement of each such 10-year or succeeding interval.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; by Stats. 1971, Ch. 742, effective 9/21/71; and by Stats. 1979, Ch. 240; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

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§ 21173. Delegation of Authority—Contracting Agency

The governing body of a contracting agency may delegate any authority or duty conferred or imposed under this article to a subordinate officer subject to conditions it may impose.

(Added by Stats. 1975, Ch. 655; renumbered by Stats. 1995, Ch. 379.)

§ 21174. Nonindustrial Disability

If it is not claimed that the disability is industrial or if the claim is made and the member so requests, the board shall proceed with retirement and with the payment of the benefits as are payable when disability is not industrial. If the Workers' Compensation Appeals Board subsequently determines that disability is industrial, an amount equal to the benefits paid shall be deducted from the benefits payable under this system because of the determination. No additional benefits shall be payable, however, because disability is determined to be industrial unless the application for that determination is filed with the Workers' Compensation Appeals Board or in the office of this system in Sacramento, for transmission to the Workers' Compensation Appeals Board within two years after the effective date of the member's retirement.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 1140; by Stats. 1955, Ch. 1412; by Stats. 1959, Ch. 1565; and by Stats. 1965, Ch. 1513; renumbered by Stats. 1995, Ch. 379.)

§ 21175. Refusal to Submit to Medical Examination

If any recipient of a disability retirement allowance under the minimum age for voluntary retirement for service applicable to members of his or her class refuses to submit to medical examination the pension portions of his or her allowance may be discontinued until his or her withdrawal of the refusal. If the refusal continues for one year his or her disability retirement allowance may be canceled.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1265; renumbered by Stats. 1995, Ch. 379.)

§ 21176. Cancellation of Allowance Upon Reentry into State Service

If a recipient of a disability retirement allowance reenters state service and is eligible for membership in this system, his or her allowance shall be canceled and he or she shall immediately become a member of this system. His or her individual account shall be credited with an amount that is the actuarial equivalent of his or her annuity at that time, as based on a disabled life, but not exceeding the amount of his or her accumulated contributions at the time of his or her retirement for disability. He or she shall receive credit for prior service in the same manner as though he or she had never been retired for disability.

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(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298, operative 10/1/49; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 7. REINSTATEMENT FROM RETIREMENT

§ 21190. Generally

A person who has been retired under this system for service may be reinstated from retirement by the board as provided in this article, and thereafter may be employed by the state or by a contracting agency in accordance with the laws governing that service, in the same manner as a person who has not been so retired.

(Added by Stats. 1949, Ch. 1402; amended by Stats. 1959, Ch. 730; renumbered by Stats. 1995, Ch. 379.)

§ 21191. Reinstatement from Industrial Disability Retirement—State or Local Miscellaneous Member

Subject to Sections 21197 and 21201, notwithstanding any other provision of law to the contrary, a person who has been retired under this system for industrial disability shall be reinstated from retirement pursuant to this article, upon his or her application to the board, if, upon reinstatement, he or she will be employed by the state or any contracting agency as a state or local miscellaneous member.

(Added by Stats. 1989, Ch. 1435, effective 10/2/89; renumbered by Stats. 1995, Ch. 379.)

§ 21192. Reinstatement from Disability Retirement—Medical Examination

The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, may require any recipient of a disability retirement allowance under the minimum age for voluntary retirement for service applicable to members of his or her class to undergo medical examination, and upon his or her application for reinstatement, shall cause a medical examination to be made of the recipient who is at least six months less than the age of compulsory retirement for service applicable to members of the class or category in which it is proposed to employ him or her. The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, shall also cause the examination to be made upon application for reinstatement to the position held at retirement or any position in the same class, of a person who was incapacitated for performance of duty in the position at the time of a prior reinstatement to another position. The examination shall be made by a physician or surgeon, appointed by the board or the governing body of the employer, at the place of residence of the recipient or other place mutually agreed upon. Upon the basis of the examination, the board or the governing body

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shall determine whether he or she is still incapacitated, physically or mentally, for duty in the state agency, the university, or contracting agency, where he or she was employed and in the position held by him or her when retired for disability, or in a position in the same classification, and for the duties of the position with regard to which he or she has applied for reinstatement from retirement.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224 and Ch. 1265; by Stats. 1949, Ch. 1215; by Stats. 1951, Ch. 612; by Stats. 1957, Ch. 936; by Stats. 1975, Ch. 655; by Stats. 1980, Ch. 481; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379.)

§ 21193. Cancellation of Disability Retirement Allowance Upon Reinstatement

If the determination pursuant to Section 21192 is that the recipient is not so incapacitated for duty in the position held when retired for disability or in a position in the same classification or in the position with regard to which he or she has applied for reinstatement and his or her employer offers to reinstate that employee, his or her disability retirement allowance shall be canceled immediately, and he or she shall become a member of this system.

If the recipient was an employee of the state or of the university and is so determined to be not incapacitated for duty in the position held when retired for disability or in a position in the same class, he or she shall be reinstated, at his or her option, to that position. However, in that case, acceptance of any other position shall immediately terminate any right to reinstatement. A recipient who is found to continue to be incapacitated for duty in his or her former position and class, but not incapacitated for duty in another position for which he or she has applied for reinstatement and who accepts employment in the other position, shall upon subsequent discontinuance of incapacity for service in his or her former position or a position in the same class, as determined by the board under Section 21192, be reinstated at his or her option to that position.

If the recipient was an employee of a contracting agency other than a local safety member, with the exception of a school safety member, the board shall notify it that his or her disability has terminated and that he or she is eligible for reinstatement to duty. The fact that he or she was retired for disability does not prejudice any right to reinstatement to duty which he or she may claim.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; by Stats. 1957, Ch. 936; by Stats. 1975, Ch. 655; by Stats. 1982, Ch. 1533; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379.)

§ 21194. Reinstatement from Partial Retirement

A person who has been partially retired under this system pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Sections 21110 through 21115 may be reinstated from partial retirement by the

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board as provided in this article, and thereafter may continue to be employed on a full-time basis by the state, in the same manner as a person who has not been so retired.

(Added by Stats. 1983, Ch. 1258, effective 9/30/83, operative 1/1/84; amended by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21195. Reinstatement Within One Year of Industrial Disability Retirement Prior to 2000—State Member

(a) Notwithstanding any other section in Article 6 (commencing with Section 21150) or in this article, the Department of Human Resources may reinstate a person who has retired for industrial disability pursuant to Section 21410, within 12 months after the effective date of retirement, if it has identified an available position with duties that the employee is able to perform. Upon reinstatement, the person shall become entitled to benefits under the partial disability retirement program pursuant to Section 21160.

(b) This section shall not apply to any job-related or job-incurred illness or injury that occurs on or after January 1, 2000.

(Added by Stats. 1993, Ch. 513; renumbered by Stats. 1995, Ch. 379, amended by Stats. 2000, Ch. 402, effective 9/11/00; and by Stats. 2012, Ch. 665.)

§ 21196. Reinstatement from Retirement—Retiree Application

The board may reinstate a person from retirement upon (a) his or her application to the board for reinstatement and (b) the determination of the board that his or her age at the date of application for reinstatement is at least six months less than the age of compulsory retirement for service applicable to members of the class or category in which it is proposed to employ him or her. The provisions of clause (b) of this section shall apply only to patrol, state peace officer/firefighters, and safety members. The effective date of reinstatement for purposes of this article shall be the first day of compensated employment following approval of reinstatement.

(Added by Stats. 1949, Ch. 1402; amended by Stats. 1974, Ch. 1418; by Stats. 1977, Ch. 192 and Ch. 766; by Stats. 1978, Ch. 385, effective 7/11/78; by Stats. 1984, Ch. 280, effective 7/3/84; and by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906.)

§ 21197. Reinstatement from Industrial Disability to Miscellaneous Member Position

The board may reinstate a person from industrial disability retirement to a miscellaneous member position upon all of the following:

(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 to be assigned to him or her.

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(c) The determination of the board that the employer from whose employment the person was retired for industrial disability has been furnished a notice of intent to reinstate that person, that contains information that he or she may be entitled to resume an industrial disability retirement allowance using the salaries earnable under the miscellaneous member position upon termination of the miscellaneous member employment.

(Added by Stats. 1989, Ch. 1435, effective 10/2/89; renumbered by Stats. 1995, Ch. 379.)

§ 21198. Reinstatement from Service Retirement Following Involuntary Termination

A person who has been retired under this system for service following an involuntary termination of his or her employment, and who is subsequently reinstated to that employment pursuant to an administrative or judicial proceeding, shall be reinstated from retirement. The requirements of Section 21196 shall not apply to that reinstatement. Reinstatement shall be effective as of the date from which salary is awarded in the administrative or judicial proceedings, and his or her rights and obligations shall be as specified in this article. However, amounts paid to the person during retirement for any period after the date from which salary is awarded, shall be repaid by him or her to this system, and contributions shall be made for any period for which salary is awarded in the administrative or judicial proceedings in the amount that he or she would have contributed had his or her employment not been terminated, and he or she shall receive credit as state service for the period for which salary is awarded.

(Added by Stats. 1965, Ch. 1605; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21199. Reinstatement from Service Retirement Upon Appointment by Governor

A person who has been retired under this system for service may be reinstated from retirement pursuant to this article, without regard to the requirements of Section 21196, upon his or her application to the board, if, upon reinstatement, he or she will be appointed by the Governor to any state office or employment.

(Added by Stats. 1965, Ch. 1605; renumbered by Stats. 1995, Ch. 379.)

§ 21200. Cancellation of Retirement Allowance Upon Reinstatement

When any person is reinstated from retirement under this article, his or her retirement allowance shall be canceled immediately, and he or she shall become a member of this system as of the date of reinstatement. His or her individual account shall be credited with an amount that is the actuarial equivalent of his or her annuity at the date of reinstatement, not to exceed the amount of his or

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her accumulated contributions as it was at the date of retirement. His or her future rate of contributions and his or her retirement allowance upon subsequent retirement shall be determined in accordance with Chapter 8 (commencing with Section 20670) and Chapter 13 (commencing with Section 21250), respectively.

The actuarial equivalent under this section shall be adjusted by the board every 10 years, or more frequently, to agree with the interest rate and mortality tables in effect at the commencement of each such 10-year or succeeding interval.

(Added by Stats. 1949, Ch. 1402; amended by Stats. 1971, Ch. 742, effective 9/21/71; and by Stats. 1979, Ch. 240; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21201. Cancellation of Industrial Disability Retirement Allowance Upon Reinstatement; Subsequent Retirement

When any person is reinstated from industrial disability retirement under Sections 21191 and 21197, his or her retirement allowance shall be canceled immediately, and he or she shall become a member of this system as of the date of reinstatement. His or her individual account shall be credited with an amount that is the actuarial equivalent of his or her annuity at the date of reinstatement, not to exceed the amount of his or her accumulated contributions as it was at the date of retirement. Upon subsequent retirement, the board shall resume the payment of his or her previous industrial disability retirement allowance using the highest compensation earnable during any period of membership, notwithstanding Section 20036, to recalculate the industrial disability retirement allowance. The member shall receive, in addition to the disability retirement allowance from the employment in which he or she was granted the industrial disability retirement, an annuity purchased with his or her accumulated normal contributions made in respect to other employment covered by this system. If the member is qualified for service retirement, he or she shall receive his or her service retirement allowance, in lieu of the industrial retirement allowance, if the service retirement allowance is greater.

(Added by Stats. 1989, Ch. 1435, effective 10/2/89; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 785.)

§ 21202. Reinstatement after Unlawful Employment

A person employed in violation of Section 21220 shall be reinstated to membership in the category in which, and on the date on which, the unlawful employment occurred.

(Added by Stats. 1987, Ch. 1001; repealed and added by Stats. 1995, Ch. 379.)

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§ 21203. Reinstatement from Service Retirement—Appointment to State Body or Commission

A person who has been retired under this system for service may be reinstated from retirement pursuant to this article, without regard to the requirements of Section 21196, upon his or her application to the board if both of the following conditions occur:

(a) Upon reinstatement, he or she will be appointed by a state board or commission to the position to which the board or commission is entitled to appoint an employee exempt from civil service under the provisions of Article VII of the California Constitution.

(b) In the judgment of the board or commission he or she has special knowledge, experience and qualifications respecting the activities of the board or commission.

(Added by Stats. 1949, Ch. 1402; repealed by Stats. 1957, Ch. 936; added by Stats. 1969, Ch. 786, effective 8/25/69; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1985, Ch. 176, effective 7/8/85; repealed and added by Stats. 1995, Ch. 379.)

ARTICLE 8. EMPLOYMENT AFTER RETIREMENT

§ 21220. Conditions; Consequences of Unlawful Employment

(a) A person who has been retired under this system, for service or for disability, may not be employed in any capacity thereafter by the state, the university, a school employer, or a contracting agency, unless the employment qualifies for service credit in the University of California Retirement Plan or the State Teachers' Retirement Plan, unless he or she has first been reinstated from retirement pursuant to this chapter, or unless the employment, without reinstatement, is authorized by this article. A retired person whose employment without reinstatement is authorized by this article shall acquire no service credit or retirement rights under this part with respect to the employment.

(b) Any retired member employed in violation of this article shall:

(1) Reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law.

(2) Pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment, plus interest thereon.

(3) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

(c) Any public employer that employs a retired member in violation of this article shall:

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(1) Pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon.

(2) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

(Added by Stats. 1951, Ch. 77; amended and renumbered by Stats. 1957, Ch. 936 and Ch. 951; present 21150 added by Stats. 1957, Ch. 936; amended by Stats. 1965, Ch. 958; repealed and added by Stats. 1969, Ch. 1227, operative 12/1/69; amended by Stats. 1980, Ch. 1264, effective 9/30/80; by Stats. 1981, Ch. 609; and by Stats. 1987, Ch. 1001; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 62 and Ch. 519; and by Stats. 2005, Ch. 328.)

§ 21220.5. Bona Fide Separation Requirement

A retired person who has not attained the normal retirement age shall have a bona fide separation in service to the extent required by the Internal Revenue Code, and the regulations promulgated thereunder, before working after retirement pursuant to this article. The board shall establish, by regulation, the criteria under which a bona fide separation is satisfied.

(Added by Stats. 2003, Ch. 519.)

§ 21221. Conditions and Limitations on Service After Retirement

A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system, as follows:

(a) As a member of any board, commission, or advisory committee, upon appointment by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a state department, or the governing board of the contracting agency. However, the appointment shall not be deemed employment within the meaning of Division 4 (commencing with Section 3200) and Division 4.5 (commencing with Section 6100) of the Labor Code, and shall not provide a basis for the payment of workers' compensation to a retired state employee or to his or her dependents.

(b) As a school crossing guard.

(c) As a juror or election officer.

(d) As an elective officer on and after September 15, 1961.

However, all rights and immunities which may have accrued under Section 21229 as it read prior to that section's repeal during the 1969 Regular Session of the Legislature are hereby preserved.

(e) As an appointive member of the governing body of a contracting agency. However, the compensation for that office shall not exceed one hundred dollars ($100) per month.

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(f) Upon appointment by the Legislature, or either house, or a legislative committee to a position deemed by the appointing power to be temporary in nature.

(g) Upon employment by a contracting agency to a position found by the governing body, by resolution, to be available because of a leave of absence granted to a person on payroll status for a period not to exceed one year and found by the governing body to require specialized skills. The temporary employment shall be terminated at the end of the leave of absence. Appointments under this section shall be reported to the board and shall be accompanied by the resolution adopted by the governing body.

(h) Upon interim appointment by the governing body of a contracting agency to a vacant position during recruitment for a permanent appointment and deemed by the governing body to require specialized skills or during an emergency to prevent stoppage of public business. A retired person shall only be appointed once to this vacant position. These appointments, including any made concurrently pursuant to Section 21224 or 21229, shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the interim appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule for the vacant position divided by 173.333 to equal an hourly rate. A retired person appointed to a vacant position pursuant to this subdivision shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate. A retired annuitant appointed pursuant to this subdivision shall not work more than 960 hours each fiscal year regardless of whether he or she works for one or more employers.

(i) Upon appointment by the Administrative Director of the Courts to the position of Court Security Coordinator, a position deemed temporary in nature and requiring the specialized skills and experience of a retired professional peace officer.

(Added by Stats. 1955, Ch. 253; amended and renumbered by Stats. 1957, Ch. 936 and Ch. 1484; former 21151 added by Stats. 1955, Ch. 973; amended and renumbered by Stats. 1957, Ch. 65; and amended and renumbered by Stats. 1957, Ch. 936; present 21151 added by Stats. 1957, Ch. 936; repealed and added by Stats. 1969, Ch. 1227, operative 12/1/69; amended by Stats. 1977, Ch. 505; by Stats. 1983, Ch. 639, effective 9/1/83; by Stats. 1987, Ch. 122; by Stats. 1989, Ch. 192; by Stats. 1990, Ch. 29, effective 3/20/90, operative 1/1/90; by Stats. 1993, Ch. 1297, operative 7/1/94; and by Stats. 1995, Ch. 760, effective 10/11/95; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1997, Ch. 951; by Stats. 2005, Ch. 328; by Stats. 2011, Ch. 440; and by Stats. 2012, Ch. 833.)

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§ 21222. Service as Elective Officer—Effect on Retirement Allowance

Notwithstanding Section 21221, if a retired person serves without reinstatement from retirement in an elective office and part or all of his or her retirement allowance is based on service in that elective office, the portion of the allowance based on service in that elective office shall be suspended during incumbency in that elective office. The entire retirement allowance shall be paid for time on and after the person vacates the elective office in the monthly amount payable had the allowance not been suspended.

The governing body of every employer other than the state shall cause immediate notice to be given to this system of the election of any retired person to an office of the employer.

(Added by Stats. 1976, Ch. 85; amended by Stats. 1983, Ch. 808; repealed and added by Stats. 1995, Ch. 379.)

§ 21223. Service for Litigation—Effect on Per Diem Compensation

A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided under this system upon approval of the Director of Human Resources or the governing body of a contracting agency, as the case may be, under employment by any state or contracting agency in which he or she previously served while a member of this system, where by reason of actual litigation, or a proceeding before the California Victim Compensation and Government Claims Board or the governing body of a contracting agency, as the case may be, or where the state or contracting agency desires to perpetuate testimony in connection with any anticipated litigation involving the state or contracting agency, and adverse interests, the services of the person are or may be necessary in preparing for trial or in testifying as to matters within or based upon his or her knowledge acquired while employed. He or she may be paid a per diem and actual and necessary traveling expenses, but he or she shall not be paid at a greater rate of compensation per diem than the rate ordinarily paid other persons by state agencies or the contracting agency for similar services. However, there shall be deducted from the per diem compensation sums equal to the retirement annuity allocable to the days of actual employment under this section.

(Added by Stats. 1951, Ch. 77; amended and renumbered by Stats. 1957, Ch. 936 and Ch. 951; former 21151 added by Stats. 1955, Ch. 973; amended and renumbered by Stats. 1957, Ch. 65; and by Stats. 1957, Ch. 936; repealed and added by Stats. 1957, Ch. 65 and Ch. 936; amended by Stats. 1959, Ch. 618; repealed and added by Stats. 1969, Ch. 1227, operative 12/1/69; amended by Stats. 1987, Ch. 1129, effective 9/25/87; and by Stats. 1994, Ch. 726, effective 9/22/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 538; and by Stats. 2012, Ch. 665.)

§ 21224. Limited Service During Emergency or Special Skills Required; Rate of Pay

(a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. These appointments shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person appointed pursuant to this section shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate. A retired annuitant appointed pursuant to this section shall not work more than 960 hours each fiscal year regardless of whether he or she works for one or more employers.

(b) (1) This section shall not apply to any retired person otherwise eligible if during the 12-month period prior to an appointment described in this section the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with 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. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(Added by Stats. 1955, Ch. 253; and by Stats. 1957, Ch. 936 and Ch. 1484; repealed and added by Stats. 1957, Ch. 936; repealed by Stats. 1959, Ch. 618; added by Stats. 1969, Ch. 1227; amended by Stats. 1975, Ch. 595; by Stats. 1977, Ch. 766; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1983, Ch. 909; by Stats. 1987, Ch. 122; by Stats. 1989, Ch. 650 and Ch. 752; and by Stats. 1992, Ch. 751; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 398; by Stats. 2005, Ch. 328; by Stats. 2011, Ch. 440; and by Stats. 2012, Ch. 41.)

§ 21225. Limited Service in Certificated Position—California Schools for the Deaf or Blind

(a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system as a substitute in a position requiring certification qualifications, pursuant to Section 59007 or 59113 of the Education Code, at the California School for the Deaf or the California School for

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the Blind, if that service does not exceed a total for all employers of 960 hours in a fiscal year.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, 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. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(Added by Stats. 1955, Ch. 973; amended and renumbered by Stats. 1957, Ch. 65; and by Stats. 1957, Ch. 936; amended by Stats. 1967, Ch. 84; repealed and added by Stats. 1969, Ch. 1227, operative 12/1/69; amended by Stats. 1984, Ch. 144; and by Stats. 1992, Ch. 751; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2005, Ch. 328; and by Stats. 2006, Ch. 118.)

§ 21226. Limited Academic Service—Community College or University of California

(a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system as a member of the academic staff of a California community college or of the University of California, if that service does not exceed a total for all employers of 960 hours in a fiscal year.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, 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. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(Added by Stats. 1957, Ch. 438; amended by Stats. 1965, Ch. 11; and by Stats. 1967, Ch. 84; repealed and added by Stats. 1969, Ch. 1227; amended by Stats. 1971, Ch. 1289; by Stats. 1972, Ch. 697; by Stats. 1975, Ch. 595; by Stats. 1981, Ch. 818; and by Stats. 1992, Ch. 751; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2005, Ch. 328; and by Stats. 2006, Ch. 118.)

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§ 21227. Limited Academic Service—CSU

(a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system as a member of the academic staff of the California State University, if that service does not exceed a total for all employers of 960 hours in a fiscal year or 50 percent of the hours the member was employed during the last fiscal year of service prior to retirement, whichever is less.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, 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. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(Added by Stats. 1981, Ch. 818; amended by Stats. 1984, Ch. 144; by Stats. 1987, Ch. 137, effective 1/8/87; and by Stats. 1992, Ch. 751; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2005, Ch. 328; by Stats. 2006, Ch. 118; and by Stats. 2007, Ch. 130.)

§ 21228. Employment After Disability Retirement—Conditions; Effect on Allowance

A person retired for disability who has not attained the mandatory age for retirement applicable to persons in the employment in which he or she will be employed, and whom the board finds not disabled for that employment, may be employed by any employer without reinstatement from retirement in a position other than that from which he or she retired or a position in the same member classification. His or her disability retirement pension shall be reduced during that employment to an amount that, when added to the compensation received, shall equal the maximum compensation earnable by a person holding the position that he or she held at the time of his or her retirement. Any employment shall terminate upon his or her attainment of the mandatory retirement age for persons in that employment. A person employed under this section shall not be concurrently employed under Section 21224, 21225, 21226, 21227, or 21229, or subdivision (h) of Section 21221.

(Added by Stats. 1972, Ch. 1348; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2011, Ch. 440.)

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§ 21229. Service for School Employer or CSU During Emergency or Special Skills Required; Rate of Pay

(a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by a school employer or by the Trustees of the California State University either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. These appointments shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person appointed pursuant to this section shall not receive any benefits, incentives, compensation in lieu of benefits, or other forms of compensation in addition to the hourly rate. A retired annuitant appointed pursuant to this section shall not work more than 960 hours each fiscal year regardless of whether he or she works for one or more employers.

(b) (1) This section shall not apply to a retired person otherwise eligible to serve without reinstatement from retirement, 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. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(Added by Stats. 1981, Ch. 818; amended by Stats. 1984, Ch. 144; by Stats. 1989, Ch. 752; and by Stats. 1992, Ch. 751; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 118; by Stats. 2011, Ch. 440; and by Stats. 2012, Ch. 41.)

§ 21230. Service in Adult Correctional Facility

(a) A safety member who is retired for service, with at least 20 years of service in corrections or at a jail, may serve without reinstatement from service retirement or loss or interruption of benefits provided by this system upon appointment by a contracting agency described in subdivision (b) to the position of superintendent, deputy superintendent, or captain of a jail or other adult correctional facility of the contracting agency to which state inmates have been transferred pursuant to an agreement, having a term of 20 years, described in Section 2910 or 2910.5 of the Penal Code. Appointments under this section shall be reported to the board and

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shall be accompanied by the resolution adopted by the governing body of the contracting agency.

(b) This section applies only if the appointing contracting agency is a city that does not maintain a municipal police department.

(Added by Stats. 2003, Ch. 861.)

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ARTICLE 1. GENERAL PROVISIONS

§ 21250. Monthly Installments

A pension, an annuity, special death benefit or retirement allowance granted by this part is payable in equal monthly installments but a smaller pro rata amount may be paid for part of a month when the period of payment begins after the first or ends before the last day of the month.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 21251. Special Account for Emergency Payments

Notwithstanding Section 20172, the board may establish a special account and procedure to directly pay estimated benefits on an emergency basis. Payments under the special account shall be deducted from benefits otherwise due and payable under this part.

The board shall furnish each recipient of funds from this account with notice that the payment is an estimated amount and that any adjustments necessary due to inaccuracies in estimating shall be corrected as soon as practicable.

(Added by Stats. 1981, Ch. 375; repealed and added by Stats. 1995, Ch. 379.)

§ 21251.13. Application of Specified Sections

(a) Notwithstanding any other provision of law, Sections 21070.5, 21070.6, 21073.1, 21073.7, 21354.1, 21362.2, 21363.1, and 21369.1 and the amendments to Sections 21070, 21071, 21072, 21073, 21073.5, and 21353.5, enacted during the first year of the 1999-2000 Regular Session:

(1) Shall not become operative unless the board adopts a resolution that does both of the following: (A) employs, for the June 30, 1998, valuation, 95 percent of the market value of assets of the state employer as the actuarial value of the assets; and (B) amortizes the June 30, 1998, excess assets over a period of 20 years, beginning July 1, 1999.

(2) Shall not apply to a state employee, as defined in subdivision (c) of Section 3513, in a bargaining unit unless and until incorporated in a memorandum of understanding, pursuant to Section 3517.5, applicable to that bargaining unit.

(3) Shall not apply to excluded employees, as defined in Section 3527, unless the Department of Human Resources has approved the application of those provisions to those employees. Notwithstanding any provision of law to the contrary, any approval by the Department of Human Resources for the application of these provisions to those excluded employees is irrevocable.

(b) Notwithstanding anything in a memorandum of understanding to the contrary, (1) the benefits provided under the provisions of those sections described in subdivision (a), as added or amended during the first year of the

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1999-2000 Regular Session, shall not terminate upon the expiration or termination of the memorandum of understanding, and (2) the only conditions to the operation of the provisions of those sections described in subdivision (a), as added or amended during the first year of the 1999-2000 Regular Session, are contained in this section.

(c) Notwithstanding Section 3517.8 or any provision of a memorandum of understanding that has been continued in effect on and after January 15, 2011, pursuant to Section 3517.8 to the contrary, the retirement formulas in Sections 21354.1, 21363.3, 21363.4, 21363.8, and 21369.1 shall only apply to state employees who were first employed and subject to those sections before January 15, 2011. Those sections shall not apply to any state employee member first employed on and after January 15, 2011.

(d) Upon request by the state employer or other entity, or on its own volition, the board may change the amortization period, or take any other action the board deems necessary or appropriate, to mitigate the impact of unforeseen factors that may cause an increase in the employer contribution by the state. Nothing in this section shall be construed to limit the board's authority under Section 17 of Article 16 of the California Constitution.

(Added by Stats. 1999, Ch. 555 and Ch. 800; amended by Stats. 2010, Ch. 3; and by Stats. 2012, Ch. 665.)

§ 21251.15. Member Account Separated by Community Property Settlement

(a) Notwithstanding any other provision of this part, when a member's account has been divided pursuant to Section 21290, and the nonmember has not effected a refund of accumulated contributions pursuant to Section 21292 prior to the member's effective date of retirement, and the nonmember has sufficient credited service to retire for service, the retirement allowance payable to a member who retires on or after January 1, 2004, shall be equal to the difference between (1) the allowance that would have been payable to the member had the division of the account not occurred and (2) the allowance payable to the nonmember on either (A) the effective date of the nonmember's retirement, or (B) if the nonmember has not retired on or before the member's effective date of retirement, the date the nonmember would have attained the age of 50 years, for service subject to Sections 21362.2, 21363.3, 21363.4, and 21363.8, and the date the nonmember would have attained the age of 55 years, or the nonmember's actual age if older than the age of 55 years on the effective date of the member's retirement, for all other service.

(b) If the nonmember retires prior to the effective date of the member's retirement, an actuarial adjustment shall also be made to the member's allowance to account for the benefits received by the nonmember spouse prior to the member's effective date of retirement.

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(c) In no event may the member's retirement allowance payable under this section be less than the allowance that would otherwise be payable under this part.

(Added by Stats. 2003, Ch. 855; amended by Stats. 2004, Ch. 231.)

§ 21252. Effective Date of Retirement

(a) A member's written application for retirement, if submitted to the board within nine months after the date the member discontinued his or her state service, and, in the case of retirement for disability, if the member was physically or mentally incapacitated to perform his or her duties from the date the member discontinued state service to the time the written application for retirement was submitted to the board, shall be deemed to have been submitted on the last day for which salary was payable. The effective date of a written application for retirement submitted to the board more than nine months after the member's discontinuance of state service shall be the first day of the month in which the member's application is received at an office of the board or by an employee of this system designated by the board.

(b) An application for retirement may only be submitted by or for a member who is living on the date the application is actually received by the system. If the member has been deemed incompetent to act on his or her own behalf continuously from the last day for which salary was payable, the effective date of retirement may not be earlier than one year prior to the month in which an application submitted by the guardian of the member's estate is received by the system.

(c) Notwithstanding any other provision of law, a member who separates from a retirement system that has established reciprocity with this system with the intention of retiring concurrently under both systems and who submits his or her application for retirement for service to the board within nine months after that separation, may have his or her application received and acted upon by this system as if the application were submitted pursuant to this section.

(Added by Stats. 1963, Ch. 2098; amended by Stats. 1980, Ch. 1102; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 346; repealed and added by Stats. 2003, Ch. 519; amended by Stats. 2009, Ch. 130.)

§ 21253. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 21254. Exemption from Taxation

The right of a person to a pension, retirement allowance, return of contributions, the pension, retirement allowance, any optional benefit, or any other right accrued or accruing to any person under this part are exempt from taxation, including any inheritance tax, whether state, county, municipal, or district.

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(Added by Stats. 1955, Ch. 1506; repealed and added by Stats. 1995, Ch. 379.)

§ 21255. Benefit Not Subject to Execution, Process or Assignment

The right of a person to any benefit or other right under this part and the money in the retirement fund are not subject to execution or any process whatsoever except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable, except as specifically provided in this part.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1963, Ch. 2098; by Stats. 1980, Ch. 1102; by Stats. 1981, Ch. 528; and by Stats. 1982, Ch. 497, operative 7/1/83; renumbered by Stats. 1995, Ch. 379.)

§ 21256. Payment to Trust

Any allowance may be paid directly to a trust. A trustee of the trust shall have the right to make tax withholding elections and to change the address for annuitant payments and correspondence.

(Added by Stats. 1992, Ch. 751; renumbered by Stats. 1995, Ch. 379.)

§ 21257. Benefits Not to be Modified

The benefits payable after August 4, 1943 under this system shall not be modified on account of any amounts paid to a retired member or beneficiary under Division 4 (commencing with Section 3200) of the Labor Code.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379.)

§ 21258. Eligibility for Disability Retirement or Death Benefits

For the purposes of determining eligibility for disability retirement, calculating disability retirement allowances, and determining and calculating death benefits, any member who, while in a membership category under which special benefits are provided by this part because a disability or death is determined industrial, and thereafter, while in a membership category under which special benefits are not so payable, is determined to be disabled because of the industrial injury or disease previously suffered or incurred or dies as a result thereof, shall be deemed to be, at the time of the disability retirement or death, in the membership category in which he or she was at the time he or she suffered the injury or incurred the disease.

The member will be eligible to receive the industrial disability retirement benefit only if he or she was disabled for performance of his or her duties in the position under the membership category where industrial disability benefits are payable, from the date of discontinuance of the state service in which the industrial injury or disease occurred to the time of application.

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The effective date of retirement for purposes of this section shall be determined in accordance with Section 21252.

(Added by Stats. 1953, Ch. 1186; amended by Stats. 1982, Ch. 863; renumbered by Stats. 1995, Ch. 379.)

§ 21259. Rights on Qualification

Subject to compliance with this part, after a member has qualified as to service and disability for retirement for disability, or as to age and service for retirement for service, nothing shall deprive him or her of the right to a retirement allowance as determined under this part.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21260. Election for One Payment in Lieu of Monthly Allowance

In lieu of receiving a monthly allowance that is less than ten dollars ($10) per month, the beneficiary or survivor entitled to the allowance may elect to receive the actuarial equivalent of the monthly allowance in one payment. Payment of the actuarial equivalent amount pursuant to that election discharges this system from all further liability for the allowance otherwise payable. The beneficiary or survivor may make the election provided by this section within 90 days from the date this system notifies him or her of the right to make the election.

(Added by Stats. 1983, Ch. 773; repealed and added by Stats. 1995, Ch. 379.)

§ 21261. Notification of Spouse—Refund, Optional Settlement Election, or Change in Beneficiary

The sole purpose of this section is to notify the current spouse of the selection of benefits or change of beneficiary made by a member. This section is not intended to conflict with community property law. An application for a refund of the member's accumulated contributions, an election of optional settlement, a designation of beneficiary, or a change in beneficiary designation shall contain the signature of the current spouse of the member, unless the member declares, in writing under penalty of perjury, any of the following:

(a) The member is not married.

(b) The current spouse has no identifiable community property interest in the benefit.

(c) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(d) The current spouse has been advised of the application and has refused to sign the written acknowledgment.

(e) The current spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

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(f) The member and the current spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.

(Added by Stats. 1988, Ch. 1163; amended by Stats. 1992, Ch. 163, operative 1/1/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21262. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21263. Discharge from Adverse Claim

Notwithstanding the provisions of Sections 751 and 1100 of the Family Code, whenever payment or refund is made by this system to a member, former member, beneficiary of a member or estate of a member pursuant to any provision of this part, or to the State Department of Social Services under the provisions of the Welfare and Institutions Code, the payment shall fully discharge this system from all adverse claims thereto unless, before the payment or refund is made, this system has received at its office in Sacramento written notice by or on behalf of some other person that the person claims to be entitled to the payment or refund.

(Added by Stats. 1955, Ch. 1411; amended by Stats. 1978, Ch. 380; and by Stats. 1992, Ch. 163, operative 1/1/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 927.)

§ 21264. Deductions for Payment of Premiums

Retired members of this system, and beneficiaries who are entitled to receive allowances or benefits under this part, may authorize deductions to be made from their retirement allowance payments or from the allowances and benefits, respectively, or from either or both if both are being received, in accordance with regulations or procedures established by the board for the payment of group insurance premiums and other premiums for benefits or protection provided for under Section 1151, including employer-sponsored voluntary insurance programs, for credit union payments or shares, or for the payment, with respect to any retired member of this system, of dues or for any other services pursuant to Article 6 (commencing with Section 1150) of Chapter 1 of Division 4 of Title 4. The board shall determine the additional cost involved in making deductions under this section and the state agency, the public agency, the association, or the unit thereof, or the credit union shall pay the amount of the additional cost to the board for deposit in the retirement fund.

(Added by Stats. 1955, Ch. 1629; amended by Stats. 1957, Ch. 1228; by Stats. 1965, Ch. 1408; by Stats. 1965, 2nd Ex. Sess., Ch. 10; by Stats. 1968,

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Ch. 449; by Stats. 1977, Ch. 518; and by Stats. 1988, Ch. 1089; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130.)

§ 21265. Deductions for Charitable Contributions

Retired members of this system, and beneficiaries who are entitled to receive allowances or benefits under this part, may authorize deductions to be made from their retirement allowance payments or from the allowances and benefits, respectively, or from either or both when both are being received in accordance with regulations established by the board for the payment of charitable contributions under any plan approved by the board. In lieu of approving individual plans, the board, at its discretion, may adopt by reference those plans approved by the California Victim Compensation and Government Claims Board under Section 13923. The board shall determine the additional cost involved in making deductions under this section, and the agency to receive the contributions shall pay the amount of the additional cost to the board for deposit in the retirement fund.

(Added by Stats. 1984, Ch. 1135, effective 9/17/84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2006, Ch. 538.)

§ 21266. Loss of Warrant for Payment

Upon receipt of proof, satisfactory to the board, that a warrant drawn in payment of a retirement allowance or in payment of any other account due from the retirement system has been lost, the Controller upon the request of the board shall issue a duplicate warrant in payment of the same amount, without requiring a bond from the payee, and any loss incurred in connection therewith shall be charged against the account from which the payment was derived.

(Added by Stats. 1947, Ch. 1140; repealed and added by Stats. 1995, Ch. 379.)

§ 21267. Direct Deposit

(a) Notwithstanding any other provision of law, any person entitled to the receipt of benefits from any state retirement system 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 his or her choice under a program for direct deposit by electronic transfer established pursuant to Section 21268. The direct deposit shall discharge the state agency's obligation with respect to that payment.

(b) Any payments directly deposited by electronic fund transfer following the date of death of a person who was entitled to the receipt of the benefits from a state retirement system shall be refunded to the retirement system.

(Added by Stats. 1985, Ch. 993, operative 1/1/87; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 506.)

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§ 21268. Direct Deposit Program

The Controller may make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and may establish a program, for the direct deposit by electronic fund transfer of the benefits, after any withholding required by law and authorized deductions, of any person entitled to the receipt of benefits from any state retirement system who authorizes the direct deposit thereof by electronic fund transfer into the person's account at the financial institution of his or her choice.

If the Controller does not make an agreement establishing a program for direct deposit by electronic fund transfer of the retirement benefits, the administrative body of any state retirement system may make such an agreement.

(Added by Stats. 1985, Ch. 993, operative 1/1/87; renumbered by Stats. 1995, Ch. 379.)

§ 21269. Deposit Procedure

(a) Any person entitled to a benefit from this system may request that payment be made by deposit by electronic fund transfer in the person's bank, savings and loan association, or credit union account.

(b) If deposit pursuant to subdivision (a) is not available, deposit may be made by mail in the person's bank, savings and loan association, or credit union account.

(c) Mailing of the warrant or electronic fund transfer is a full discharge of the board and this system.

(d) The board shall make available, in a manner it determines appropriate, copies of the monthly benefit payment information electronically or by mail.

(1) If the board elects to mail copies of this payment information to all or a portion of persons receiving monthly benefit payments, it shall not send a copy of the benefit payment information to any person who has had payment made by electronic fund transfer or by mail pursuant to subdivision (a) or (b), if the board has received a written request from that person that it not be sent.

(2) The board shall notify persons subject to this section, in the monthly benefit payment notice, of their right to request that no copy of the benefit payment information be mailed, pursuant to paragraph (1).

(3) If the board does not elect to mail copies of this payment information to all or a portion of persons receiving monthly benefit payments, it shall notify a person subject to this section of his or her right to request that a copy of the benefit payment information be mailed. The board shall mail a copy of the benefit payment information if the system has received a written request to do so from that person.

(Added by Stats. 1974, Ch. 325; amended by Stats. 1978, Ch. 1180, effective 9/26/78; repealed and added by Stats. 1982, Ch. 1231; amended by Stats. 1993, Ch. 1083; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2013, Ch. 778.)

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ARTICLE 2. COMMUNITY PROPERTY

§ 21290. Division of Accumulated Contributions and Service Credit—Rights and Entitlements of Nonmember

(a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the community property is divided in accordance with paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court shall order that the accumulated contributions and service credit attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the 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) The court shall address the rights of the nonmember to the following:

(1) The right to a retirement allowance, and the consequent right to elect an optional settlement and designate a beneficiary.

(2) The right to a refund of accumulated contributions.

(3) The right to redeposit accumulated contributions that are eligible for redeposit by the member under Sections 20750 and 20752.

(4) The right to purchase service credit that is eligible for purchase by the member under Article 4 (commencing with Section 20990) and Article 5 (commencing with Section 21020) of Chapter 11.

(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.

(7) The right to elect coverage in the Second Tier for that member service that is subject to the Second Tier, provided that the election is made within one year of the establishment of the nonmember account or prior to the nonmember's retirement, whichever occurs first. Immediately upon establishment of a nonmember account, the board shall provide, by certified mail, the necessary form and information so that the election may be made.

(d) In the capacity of nonmember, he or she shall not be entitled to any disability or industrial disability retirement allowance, any basic death benefit, any special death benefit, any monthly allowance for survivors of a member or retired person, any insurance benefit, or retired member lump-sum death benefit. No survivor continuance allowance shall be payable to a survivor of a nonmember.

(e) (1) A nonmember whose account is credited with service subject to the Second Tier benefits provided in Section 21076 or 21077 may make an irrevocable election, to be filed with the board, to have his or her Second Tier service credited under Section 21354.1, if the following conditions are met:

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(A) The member is employed by the state on or after January 1, 2000.

(B) If eligible, the member has made the election provided in subdivision (a) of Section 21073.7 at the time of the nonmember's election.

(2) An election under this subdivision shall be effective the first of the month following the date the election is received by the system. An election under this subdivision may be made at any time prior to the retirement of the nonmember or prior to payment of a refund of the accumulated contributions in the separate account of the nonmember. A nonmember who makes the election under this subdivision shall make the contributions specified in Section 21073.1.

(3) The term "member" as used in this subdivision means the person from whose account the Second Tier service that is credited to the separate account of the nonmember was derived.

(Added by Stats. 1988, Ch. 542, effective 8/23/88; amended by Stats. 1992, Ch. 751; and by Stats. 1993, Ch. 219; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 485 and Ch. 932; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21291. "Nonmember"

"Nonmember," as used in this article, means the spouse or former spouse of a member, who as a result of petitioning the court for the division of community property, has been awarded a distinct and separate account reflecting specific credited service and accumulated contributions.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379.)

§ 21291.5 Nonmember Distributions

Notwithstanding any other provision of this article, a spouse or registered domestic partner who is not an alternate payee, as defined in Section 414(p)(8) of the Internal Revenue Code (26 U.S.C. Sec. 401 et seq.) shall not receive a distribution until the member separates from employment.

(Added by Stats. 2005, Ch. 418.)

§ 21292. Nonmember Right to Refund

(a) The nonmember who is awarded a separate account shall have the right to a refund of the accumulated contributions in the separate account of the nonmember.

(b) The nonmember shall file an application on a form provided by this system to obtain the refund.

(c) The refund shall be effective when this 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 this system.

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(d) The nonmember is deemed to have permanently waived all rights in this 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 under Section 20750 or 20752 , or to purchase service credit under Article 4 (commencing with Section 20990) or Article 5 (commencing with Section 21020) of Chapter 11 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 retire, the nonmember shall receive a refund of the accumulated contributions placed in the nonmember's account.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379.)

§ 21293. Nonmember Right to Redeposit Contributions Previously Refunded to Member

(a) The nonmember who is awarded a separate account may redeposit accumulated contributions previously refunded to the member in accordance with the determination of the court required by Section 21290.

(b) The nonmember may redeposit only those accumulated contributions 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 pursuant to Section 20750 or Section 20752.

(d) An election to redeposit shall be considered an election to repay all accumulated contributions 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 redeposit the share of the nonmember in the previously refunded accumulated contributions unless the nonmember has permanently waived all rights in the system by effecting a refund of accumulated contributions pursuant to Section 21292. However, any right to redeposit previously refunded accumulated contributions not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(g) If the nonmember elected to redeposit upon retirement and has subsequently died, prior to completing the redeposit, the board shall file a claim against the

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estate of the decedent to recover benefit payments that exceeded those for which payment was made.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 855.)

§ 21294. Nonmember Right to Purchase Service Credit

(a) The nonmember shall have the right to purchase service credit pursuant to the determination of the court required by Section 21290.

(b) The nonmember may purchase only that service credit that the court, pursuant to Section 21290 has determined to be the community property interest 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 required by Article 4 (commencing with Section 20990) and Article 5 (commencing with Section 21020) of Chapter 11 and 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 purchase the community property interest of the nonmember of the service credit unless the nonmemberhas permanently waived all rights in the system by effecting a refund of accumulated contributions pursuant to Section 21292. 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.

(f) If the nonmember elected to purchase service credits upon retirement and has subsequently died, prior to completing the purchase, the board shall file a claim against the estate of the deceased to recover benefit payments that exceeded those for which payment was made.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 855.)

§ 21295. Nonmember Eligibility for Retirement

A nonmember shall be retired upon his or her written application to the board if all of the following conditions are met:

(a) The nonmember has attained the minimum age prescribed by the applicable service retirement formula of the member.

(b) On the date of marriage dissolution or legal separation, the member had sufficient credited service to retire for service.

(c) On the date of application, the member has attained minimum retirement age to receive a service retirement allowance.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379.)

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§ 21296. Nonmember Effective Date of Retirement

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. If the retirement application is not received within nine months of the requested effective date, 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 this system designated by the board, or, if the nonmember has been incompetent to act on his or her own behalf continuously from the date of dissolution or legal separation, one year prior to the month in which an application by the guardian of his or her estate is so received. An application for retirement may only be filed by or for a nonmember who is living on the date the application is actually received by this system. The effective date of a nonmember application for retirement received more than nine months after the requested effective date shall be determined in accordance with Section 20160.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130.)

§ 21297. "Final Compensation"—Nonmember

For a nonmember, "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 of dissolution of marriage or legal separation. 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.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379.)

§ 21298. Nonmember Service Retirement Formula

(a) 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.

(b) The retirement allowance shall consist of a pension and an annuity, the latter of which shall be derived from the nonmember's accumulated contributions. The nonmember's retirement allowance, based upon the service credited by the employer and the nonmember's effective date of retirement, shall be subject to all cost-of-living increases, ad hoc increases, and increases provided by Section 21337 or 21337.1.

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(c) If, prior to the nonmember's retirement, there is any increase in the service retirement formula that applies to service credited to the nonmember, that increase shall apply to the applicable service credited to the nonmember, provided that the same increase also applies to the applicable service credited to the member from whose account the nonmember's service was derived.

(Added by Stats. 1988, Ch. 542, effective 8/24/88; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; and Ch. 793.)

ARTICLE 3. COST-OF-LIVING ADJUSTMENTS

§ 21310. Legislative Purpose

It is the purpose of the Legislature in enacting this article to provide for the preservation of the purchasing power of benefits under the Public Employees' Retirement Law through a system of adjustments in benefits based on changes in living costs.

(Added by Stats. 1968, Ch. 941, operative 12/1/68; renumbered by Stats. 1995, Ch. 379.)

§ 21310.5. Cost of Living Adjustment Limits

The cost-of-living adjustments under Section 415(d) of the Internal Revenue Code to the limits described in Section 415(b) of the Internal Revenue Code, as prescribed by the regulations of the Department of the Treasury of the United States, are hereby incorporated by reference and shall continue to apply after a member' s severance from employment or annuity starting date. The amount payable to a member in any limitation year, including any cost-of-living adjustments provided under this article, shall not be greater than the limit applicable under Section 415(b) of the Internal Revenue Code at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the associated regulations.

(Added by Stats. 2009, Ch. 130.)

§ 21311. Definitions

The following definitions shall govern the application of this article:

(a) "Monthly allowance" means any allowance payable monthly to a retired person, a survivor or beneficiary of a member or a retired person, other than a monthly installment of a basic death benefit, the commuted value of an unpaid temporary annuity, or an optional settlement 1, or allowances payable under Article 3 (commencing with Section 21570) of Chapter 14. There shall be excluded from the monthly allowance, for purposes of any adjustment under this

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article, any portion of the allowance derived from accumulated additional contributions of a member.

(b) "Base allowance" means the amount of monthly allowance that would be payable to the recipient at the time of an annual adjustment under this article had this article not been enacted.

(c) Effective January 1, 1978, "Consumer Price Index" means the United States city average "Consumer Price Index for All Urban Consumers." The "Consumer Price Index" for any period prior to January 1, 1978, means the United States city average consumer price index. Should the reference base of the consumer price indices (presently 1957-59=100) be changed, each of the indices used to determine the consumer price index as defined in this section will be the indices converted to the new base by standard statistical methods.

(d) "Base year" means:

(1) The calendar year 1965 for all members whose retirement occurred prior to January 1, 1966, and for the beneficiaries and survivors of those retired members.

(2) The calendar year of retirement for all members whose retirement occurs after December 31, 1965, and for the beneficiaries and survivors of those members.

(3) The calendar year 1965 for survivors of members whose death occurred before January 1, 1966.

(4) The calendar year in which a member's death occurs for survivors of members whose death occurred before retirement and on or after January 1, 1966.

(Added by Stats. 1968, Ch. 941; amended by Stats. 1970, Ch. 647; by Stats. 1978, Ch. 900; and by Stats. 1984, Ch. 110, effective 5/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 21312. Adjustments—Retiree of a Local System or Terminated Public Agency Contract

Notwithstanding Section 20481, monthly allowances payable to persons retired under a local system of a contracting agency at the time of contract shall be adjusted in accordance with this article. However, with respect to those retired persons under a contract effective on or after April 1, 1973, the "base year" shall be the year in which the contract is effective. Allowances payable for service to a public agency whose contract is terminated on or after December 1, 1969, shall be adjusted in accordance with this article subject to reduction in accordance with Section 20577. Allowances payable for service to a public agency whose contract was terminated prior to December 1, 1969, shall not be adjusted in accordance with this article.

(Added by Stats. 1969, Ch. 752; amended by Stats. 1972, Ch. 1328, operative 4/1/73; renumbered by Stats. 1995, Ch. 379.)

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§ 21313. Annual COLA—Time Period and Payment

Monthly allowances shall be adjusted annually for time commencing on April 1 and effective with the monthly allowance regularly payable on the first day of May beginning with May 1, 1969. The adjusted monthly allowance shall be equal to the base allowance multiplied by an adjustment factor which is equal to the ratio obtained by dividing the consumer price index for the immediately preceding year by the consumer price index for the recipient's base year. The adjustments shall be subject to the conditions and limits provided in this article.

(Added by Stats. 1968, Ch. 941; amended by Stats. 1984, Ch. 110, effective 5/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 21317. 15% Ad Hoc Increase—Local Safety Member Retired for Service

(a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by any section other than Section 21362, as amended by Chapter 96 of the Statutes of 1971, and paid with respect to a local safety member whose retirement for service or nonindustrial death before retirement occurred prior to the date the contracting agency elected to be subject to Section 21362 as so amended, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under the system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.

(d) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1978, Ch. 1371; amended by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

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§ 21318. 15% Ad Hoc Increase—Local Safety Member Retired for Service or Disability

(a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by any section other than Section 21362, as amended by Chapter 96 of the Statutes of 1971, and paid with respect to a local safety member whose retirement for service or nonindustrial death before retirement occurred, or who was granted an industrial or nonindustrial disability retirement, prior to the date the contracting agency elected to be subject to Section 21362 as so amended, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.

(d) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1990, Ch. 29, effective 3/20/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21319. 15% Ad Hoc Increase—Local Miscellaneous Member Retired or Died Before 1971

(a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by a retirement formula applicable to local miscellaneous members who retired prior to July 1, 1971, or to local miscellaneous members who so retired and then were reinstated from retirement and retired again after July 1, 1971, and whose allowance is based

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upon such a formula and paid with respect to a local miscellaneous member whose retirement or whose initial retirement or death before retirement occurred prior to July 1, 1971, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of the application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) This section shall apply only to the portion of the allowance that is based on service in employment with the employer electing to be subject to this section.

(c) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1975, Ch. 577; amended by Stats. 1976, Ch. 116, effective 4/23/76; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21320. 4% Ad Hoc Increase—State Member Retired or Died Before 1981

(a) In addition to the increase in allowance authorized by and granted pursuant to Section 21313, and notwithstanding the limitation on such increases imposed by this article, the monthly allowance paid with respect to a state member, other than a school member, who retired or died prior to January 1, 1981, shall be increased by 4 percent.

(b) The 4 percent shall be applied to the allowance payable on July 1, 1981, less the amount of the allowance paid pursuant to Section 21231, and the allowance as so increased shall be paid for time on and after that date and until April 1, 1982. The base allowance shall be the allowance as so increased, less payments pursuant to Section 21231, for annual adjustments effective for time commencing on April 1, 1982.

(Added by Stats. 1975, Ch. 175, effective 6/30/75, operative 7/1/75; repealed and added by Stats. 1981, Ch. 132, effective 7/1/81; renumbered by Stats. 1995, Ch. 379.)

§ 21322. 4% Ad Hoc Increase—Local Member Retired or Died Before 1981

Section 21320 shall apply to any contracting agency that has included the provisions of that section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1983, Ch. 475; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

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§ 21325. 3% to 15% Ad Hoc Increase—Local Member Retired or Died Before 1974

(a) In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to January 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

Period during which retirement or death occurred:	Percentage:
On or before December 31, 1965	15%
12 months ending December 31, 1966	14%
12 months ending December 31, 1967	13%
12 months ending December 31, 1968	12%
12 months ending December 31, 1969	9%
12 months ending December 31, 1970	6%
12 months ending December 31, 1971	5%
12 months ending December 31, 1972	4%
12 months ending December 31, 1973	3%

(b) The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

(c) This section shall not apply to any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1977, Ch. 1110; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21326. 1% to 7% Ad Hoc Increase—Local Member Retired or Died Before 1975

(a) In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to

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July 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

Period during which retirement or death occurred:	Percentage:
On or before December 31, 1965	7%
12 months ending December 31, 1966	6%
12 months ending December 31, 1967	5%
12 months ending December 31, 1968	4%
12 months ending December 31, 1969	3%
18 months ending June 30, 1971	2%
36 months ending June 30, 1974	1%

(b) The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

(c) This section shall not apply to any contracting agency unless the agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1977, Ch. 1110; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21327. Ad Hoc Increase—State or Local Member Retired or Died Before 1975

In addition to the increase in allowance authorized and granted pursuant to provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, effective January 1, 1980, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state or local member, other than a school member, who retired or died prior to January 1, 1975, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

Period during which retirement or death occurred:	Percentage:
12 months ending December 31, 1967	1.51
12 months ending December 31, 1968	1.26
12 months ending December 31, 1969	1.86

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Period during which retirement or death occurred:	Percentage:
12 months ending December 31, 1970	2.55
6 months ending June 30, 1971	1.91
6 months ending December 31, 1971	7.05
12 months ending December 31, 1972	6.76
12 months ending December 31, 1973	4.45
6 months ending June 30, 1974	0.47
6 months ending December 31, 1974	1.31

The percentage shall be applied to the allowance payable on January 1, 1980, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after the date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

This section shall not apply to any contracting agency unless the agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Added by Stats. 1979, Ch. 1036; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793; and by Stats. 2002, Ch. 664.)

§ 21328. 1% to 6% Ad Hoc Increase—Member Retired or Died Before 1998

(a) In addition to the increase in allowance authorized and granted pursuant to Section 21313, and notwithstanding the limitation on that increase imposed by this article and subdivision (b) of Section 21337 or subdivision (a) of Section 21337.1, effective January 1, 2000, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state, local, or school member who retired or died prior to January 1, 2000, or the date this section becomes applicable to the contracting agency, other than an allowance provided by Article 3 (commencing with Section 21570) of Chapter 14, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

Period during which retirement or death occurred:	Percentage:
24 months ending Dec. 31, 1999	0.0%
12 months ending Dec. 31, 1997	1.0%

Period during which retirement or death occurred:	Percentage:
24 months ending Dec. 31, 1996	2.0%
60 months ending Dec. 31, 1994	3.0%
60 months ending Dec. 31, 1989	4.0%
120 months ending Dec. 31, 1984	5.0%
12 months ending Dec. 31, 1974 or earlier	6.0%

The percentage shall be applied to the allowance payable on January 1, 2000, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. Notwithstanding Section 21337 or 21337.1 to the contrary, this increase shall not be included in determining the initial monthly allowance upon which a supplemental benefit is payable pursuant to Section 21337 or 21337.1.

(b) This section shall not apply to any contracting agency unless and until the agency elects to be subject to its provisions by amendment to its contract, made in the manner prescribed for approval of contracts, or, in the case of contracts made after the effective date of this section, by an express provision in the contract making the contracting agency subject to the provisions of this section.

(Added by Stats. 1999, Ch. 555, amended by Stats. 2000, Ch. 237; and by Stats. 2001, Ch. 793.)

§ 21329. 2% Annual COLA—Limitations on Adjustments

The adjustments provided by this article are subject to the following limitations:

(a) No adjustment shall be made for any year for which the adjustment is less than 1 percent of the base allowance, and the adjustment for any year shall not exceed 6 percent of the base allowance.

(b) No monthly allowance in any year may exceed an amount equal to the base allowance increased by 2 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made.

(c) No monthly allowance in any year shall be less than the base allowance.

(d) No adjustment shall be made in any year in which the actuarial interest rate is less than 4.5 percent.

(Added by Stats. 1968, Ch. 941; amended by Stats. 1970, Ch. 647, operative 12/1/70; renumbered by Stats. 1995, Ch. 379.)

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§ 21330. 3% Annual COLA—State Second Tier Allowance

Notwithstanding anything to the contrary in this article, the monthly allowance for service credited under the Second Tier shall be adjusted annually beginning with the second calendar year following retirement for time commencing on April 1 and payable on the first day of May. The adjusted monthly allowance shall be equal to the base allowance increased by 3 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; amended by Stats. 1986, Ch. 199, effective 6/27/86; and by Stats. 1988, Ch. 963; repealed and added by Stats. 1995, Ch. 379.)

§ 21331. Application of Adjustment

An adjustment in a monthly allowance under this article shall be derived from or credited to contributions of the employer, and if the monthly allowance is a retirement allowance the adjustment shall be applied as an increase or decrease, as the case may be, in the current and prior service pensions.

(Added by Stats. 1968, Ch.941; amended by Stats. 1973, Ch. 389; repealed and added by Stats. 1995, Ch. 379.)

§ 21335. Increased Annual COLA—Local Member

Notwithstanding Section 21329, the adjustments in allowances for local members provided by this article for the time commencing on and after the annual adjustment date following the date specified by the contracting agency in its contract shall be subject to the following limitations:

(a) No adjustment shall be made for any year for which the adjustment is less than 1 percent of the base allowance.

(b) No monthly allowance in any year may exceed an amount equal to the base allowance increased by 3, 4, or 5 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made. A contracting agency shall designate the applicable percentage and may amend its contract to increase the percentage.

(c) No monthly allowance in any year shall be less than the base allowance.

(d) No adjustment shall be made in any year in which the actuarial interest rate is less than 5.25 percent.

However, the adjusted allowances in years following the year in which the contract of an agency subject to this section is terminated may not exceed the adjusted allowance in the year of contract termination or the amount determined in accordance with subdivision (b) of Section 21329, whichever is the greater.

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For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

The additional employer contributions required as a result of making this section applicable shall be computed as a level percentage of member compensation. The additional contribution rate required, at the time this section is added to a contract, shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1975, by express provision in the contract making the contracting agency subject to this section.

(Added by Stats. 1974, Ch. 1390; amended by Stats. 1975, Ch. 1011, effective 9/23/75; by Stats. 1979, Ch. 320; and by Stats. 1981, Ch. 963; repealed and added by Stats. 1995, Ch. 379.)

§ 21337. Purchasing Power Protection Allowance—State and School Members

(a) On an annual basis, the board shall transfer funds to separate supplemental state and school accounts, to fund the purchasing power protection allowance of retirees, survivors, and beneficiaries of state or school employers, respectively. The amounts transferred shall be the lesser of the following:

(1) The amount necessary to increase all monthly allowances paid by this system to retirees, survivors, and beneficiaries of state or school employers to 75 percent of the purchasing power of the initial monthly allowances.

(2) One and one-tenth percent of the net earnings on state or school member contributions, as determined by Section 20178.

(b) The funds transferred to the two separate supplemental accounts shall be utilized to increase all monthly allowances paid by this system to retirees, survivors, and beneficiaries of state and school employers, up to a maximum of 75 percent of the purchasing power, as determined by the board, of the initial monthly allowances, notwithstanding the benefit provided by Section 21328, that were received by every retired state or school member or survivor or beneficiary of a state or school member or retiree who was eligible to receive any allowance at the end of each fiscal year. Funds remaining in the state or school account after the payment of benefits under this section shall be transferred to the respective state or school employer accounts.

(c) Annual adjustments in the purchasing power protection allowance shall be effective with the monthly allowance regularly payable on the first day of May, provided that in the first year after enactment of the act adding this subdivision, the purchasing power protection allowance adjustment to the monthly allowance payable on the first day of May shall also reflect an adjustment for the period from January 1 through April 30. The board shall implement the provisions of this subdivision on or before January 1, 2012, unless the board determines that the implementation tasks cannot be completed until a later date, in which case, the board shall be prepared to implement the provisions of this section no later than July 1, 2013.

(Added by Stats. 1991, Ch. 83, effective 6/30/91; amended by Stats. 1992, Ch. 427; and by Stats. 1993, Ch. 1168; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555; Stats. 2000, Ch. 483, effective 9/11/00, operative 7/1/00; and by Stats. 2010, Ch. 639.)

§ 21337.1. Purchasing Power Protection Allowance—Local Members

(a) All monthly allowances paid by the system to retirees of contracting public agencies, and to survivors and beneficiaries of members and retirees of those agencies, shall annually be increased to 80 percent of the purchasing power of the initial monthly allowance as determined by the board. Adjustments in the purchasing power protection allowance shall be effective with the monthly allowance regularly payable on the first day of May, provided that, in the first year after enactment of the act amending this subdivision, the purchasing power protection allowance adjustment to the monthly allowance payable on the first day of May shall also reflect an adjustment for the period from January 1 through April 30.

(b) Notwithstanding subdivision (a), retirees of contracting public agencies, and survivors and beneficiaries of members and retirees of those agencies, who receive a monthly allowance payable by this system shall also receive, on or after January 1, 2001, a one-time lump-sum payment in an amount equal to the difference, if any, between the purchasing power protection allowance paid between January 1, 2000, and December 31, 2000, and the purchasing power protection allowance that would have been payable if this section had been operative during that period.

(c) The cost of the increase in allowances paid pursuant to subdivisions (a) and (b) shall be paid from the same assets of the employer used in the determination of each employer contribution rate for each membership classification under which service was credited that affects the allowance calculation of the retirees, survivors, or beneficiaries.

(Added by Stats. 2000, Ch. 483, effective 9/11/00, operative 7/1/00; amended by Stats. 2010, Ch. 639.)

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ARTICLE 4. RETIREMENT FOR SERVICE

§ 21350. Generally

Upon retirement for service, a member is entitled to receive a service retirement allowance which shall consist of:

(a) The member's service retirement annuity, including, with respect to patrol members and solely in respect to the portion of the annuity derived from the normal accumulated contributions of those members, respectively, automatic continuance to surviving spouse, or if there is no spouse at retirement, to surviving children, or if there are no eligible surviving children at retirement, to surviving dependent parents as provided in this article.

(b) The member's current service pension.

(c) The member's prior service pension.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298, Ch. 747, and Ch. 1498; by Stats. 1951, Ch. 612; by Stats. 1953, Ch. 1186; and by Stats. 1975, Ch. 51; renumbered by Stats. 1995, Ch. 379.)

§ 21351. Amount of Annuity

The actual amount of annuity receivable by a member upon retirement shall be the actuarial equivalent of his or her accumulated contributions.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612, operative 10/1/51; renumbered by Stats. 1995, Ch. 379.)

§ 21352. Annuity Formula

The service retirement annuity is the sum of the annuities which are the actuarial equivalents of the normal and additional accumulated contributions of a member at the time of his or her retirement.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298 and Ch. 747; renumbered by Stats. 1995, Ch. 379.)

§ 21353. 2% at Age 60 Benefit Formula—Miscellaneous Member

(a) The combined current and prior service pensions for a local miscellaneous member, a school member, a state miscellaneous or state industrial member, or a university member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 and prior service except service in a category of membership other than that of state or state industrial member, local miscellaneous member, school member, or a university

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member, or service covered under this First Tier retirement formula, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	.546
50 1/4	.554
50 1/2	.562
50 3/4	.570
51	.578
51 1/4	.586
51 1/2	.595
51 3/4	.603
52	.612
52 1/4	.621
52 1/2	.630
52 3/4	.639
53	.648
53 1/4	.658
53 1/2	.668
53 3/4	.678
54	.688
54 1/4	.698
54 1/2	.709
54 3/4	.719
55	.730
55 1/4	.741
55 1/2	.753
55 3/4	.764
56	.776
56 1/4	.788
56 1/2	.800
56 3/4	.813
57	.825
57 1/4	.839
57 1/2	.852
57 3/4	.865
58	.879
58 1/4	.893
58 1/2	.908
58 3/4	.923
59	.937

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Age of Retirement	Fraction
59 1/4	.953
59 1/2	.969
59 3/4	.985
60	1.000
60 1/4	1.017
60 1/2	1.034
60 3/4	1.050
61	1.067
61 1/4	1.084
61 1/2	1.101
61 3/4	1.119
62	1.136
62 1/4	1.154
62 1/2	1.173
62 3/4	1.191
63 and over	1.209

(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in the federal system benefits.

(d) With the exception of state miscellaneous members for service rendered for the California State University or the legislative or judicial branch of government, this section shall apply to state miscellaneous and state industrial members who are not employed by the state on or after January 1, 2000.

(e) (1) This section shall apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may

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exercise his or her discretion whether to approve their status in writing to the board.

(2) This subdivision does not apply to:

(A) Former state employees previously employed before the first day of the pay period following the effective date of this subdivision, who return to state employment on or after the first day of the pay period following the effective date of this subdivision.

(B) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who were subject to Section 20281.5 during the first 24 months of state employment.

(C) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who become subject to representation by State Bargaining Unit 12, 16, 18, or 19 on or after the first day of the pay period following the effective date of the act adding this subdivision.

(D) State employees on an approved leave of absence employed before the first day of the pay period following the effective date of this subdivision, who return to active employment on or after the first day of the pay period following the effective date of the act adding this subdivision.

(f) (1) This section shall apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(2) This subdivision does not apply to:

(A) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(B) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(C) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(D) State employees on an approved leave of absence employed before October 1, 2010, who return to active employment on or after October 31, 2010.

(g) (1) Notwithstanding Section 3517.8 or any provision of an expired memorandum of understanding, this section shall also apply to a state miscellaneous or industrial member who is employed by the state, the Legislature, the judicial branch, or the California State University for the first time and becomes a member of the system on or after January 15, 2011.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding

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shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(3) This subdivision does not apply to:

(A) Former state, legislative, judicial branch, or university employees previously employed before January 15, 2011, who return to employment on or after January 15, 2011, and who were not previously subject to this section.

(B) State employees hired prior to January 15, 2011, who were subject to Section 20281.5 during the first 24 months of state employment, and who were not previously subject to this section.

(C) State, legislative, judicial branch, or university employees on an approved leave of absence employed before January 15, 2011, who return to active employment on or after January 15, 2011, and who were not previously subject to this section.

(Added by Stats. 1970, Ch. 767; amended by Stats. 1971, Ch. 170; by Stats. 1975, Ch. 157; by Stats. 1976, Ch. 1115 and Ch. 1436; by Stats. 1980, Ch. 481; and by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1999, Ch. 555; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00. Added by Stats. 2010, Ch. 162, effective 8/23/10; repealed and added by Ch. 163, effective 8/23/10; amended by Ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21353.5. Modified First Tier Benefit Formula—State Miscellaneous or Industrial Member

(a) The combined current and prior service pensions for a state miscellaneous or state industrial member who has elected to be subject to the service retirement formula prescribed in this section, as provided by Sections 21071 and 21073.5, is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 and prior service, except service in a category of membership other than that credited under this section, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	.546
50 1/4	.554
50 1/2	.562

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Age of Retirement	Fraction
50 3/4	.570
51	.578
51 1/4	.586
51 1/2	.595
51 3/4	.603
52	.612
52 1/4	.621
52 1/2	.630
52 3/4	.639
53	.648
53 1/4	.658
53 1/2	.668
53 3/4	.678
54	.688
54 1/4	.698
54 1/2	.709
54 3/4	.719
55	.730
55 1/4	.741
55 1/2	.753
55 3/4	.764
56	.776
56 1/4	.788
56 1/2	.800
56 3/4	.813
57	.825
57 1/4	.839
57 1/2	.852
57 3/4	.865
58	.879
58 1/4	.893
58 1/2	.908
58 3/4	.923
59	.937
59 1/4	.953
59 1/2	.969
59 3/4	.985
60 and over	1.000

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(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system.

(c) The retirement allowance provided by this section, which shall be effective for members who retire on and after April 1, 1998, is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in the federal system benefits.

(d) This section shall become inoperative on January 1, 2000.

(e) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

(Added by Stats. 1998, Ch. 88, effective 6/30/98; and Ch. 91, effective 7/3/98; amended by Stats. 1999, Ch. 555.)

§ 21354. 2% at Age 55 Benefit Formula—Local Miscellaneous Member

The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contribution of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age at Retirement	Fraction
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917

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Age at Retirement	Fraction
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
61 3/4	1.176
62	1.183
62 1/4	1.189
62 1/2	1.196
62 3/4	1.202
63	1.209

The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all services of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and who elects not to be subject to this paragraph or with respect to service

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rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

This section shall supersede Section 21353 with respect to all local miscellaneous members who retire after the date this section becomes applicable to their respective employers.

This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(Added by Stats. 1990, Ch. 549; renumbered by Stats. 1995, Ch. 379.)

§ 21354.1. 2% at Age 55 Benefit Formula—State Miscellaneous or Industrial Member or School Member

(a) The combined current and prior service pensions for school members, state miscellaneous or state industrial members, or university members who are subject to the provisions of this section is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 and prior service, except service in a category of membership other than that of a school member, state miscellaneous or state industrial member, or university member or service covered under this retirement formula with which the member is entitled to be credited at retirement:

Age at retirement	Fraction
50	0.550
50 1/4	0.573
50 1/2	0.595
50 3/4	0.618
51	0.640
51 1/4	0.663
51 1/2	0.685
51 3/4	0.708
52	0.730
52 1/4	0.753
52 1/2	0.775

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Age at retirement	Fraction
52 3/4	0.798
53	0.820
53 1/4	0.843
53 1/2	0.865
53 3/4	0.888
54	0.910
54 1/4	0.933
54 1/2	0.955
54 3/4	0.978
55	1.000
55 1/4	1.008
55 1/2	1.016
55 3/4	1.024
56	1.032
56 1/4	1.040
56 1/2	1.048
56 3/4	1.055
57	1.063
57 1/4	1.071
57 1/2	1.079
57 3/4	1.086
58	1.094
58 1/4	1.102
58 1/2	1.110
58 3/4	1.118
59	1.125
59 1/4	1.134
59 1/2	1.141
59 3/4	1.149
60	1.157
60 1/4	1.165
60 1/2	1.173
60 3/4	1.180
61	1.188
61 1/4	1.196
61 1/2	1.203
61 3/4	1.211
62	1.219
62 1/4	1.227
62 1/2	1.235

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Age at retirement	Fraction
62 3/4	1.243
63 and over	1.250

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system. This subdivision shall not apply to school members whose service is included in the federal system with respect to service performed on or after January 1, 2001.

(c) This section shall supersede Section 21353 for all school members, all university members, and all state miscellaneous members, with respect to service rendered for the California State University or the legislative or judicial branch of government, who retire on or after January 1, 2000.

(d) This section shall also supersede Section 21353 for state miscellaneous or state industrial members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000, and who do not elect under Section 21070.5 to be subject to Second Tier benefits.

(e) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(f) Notwithstanding any other provision of this section, this section shall not apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(g) Notwithstanding any other provision of this section, this section shall not apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(h) (1) Notwithstanding Section 3517.8 or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to a state miscellaneous or industrial member who is employed by

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the state, the Legislature, the judicial branch, or the California State University for the first time and becomes a member of the system on or after January 15, 2011.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2000, Ch. 1030. Added by Stats. 2010, Ch. 162, effective 8/23/10; repealed and added by Ch. 163, effective 8/23/10; amended by Ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21354.3. 3% at Age 60 Benefit Formula—Local Miscellaneous Member

(a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age at retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875

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Age at retirement	Fraction
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

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all services of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and who elects not to be subject to this subdivision or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353, 21354, 21354.1, 21354.4, and 21354.5 with respect to a local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of

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contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(e) (1) Notwithstanding subdivision (d) and for purposes of this subdivision, "Riverside County contracting agency" means any of the following:

(A) County of Riverside.

(B) County of Riverside Regional Park and Open-Space District.

(C) County of Riverside Waste Resources Management District.

(D) County of Riverside Flood Control and Water Conservation District.

(2) This section shall apply to a former employee of a Riverside County contracting agency if that former employee is currently employed by another Riverside County contracting agency. This section shall not apply to a Riverside County contracting agency nor the current or former employees of that Riverside County contracting agency until the Riverside County contracting agency elects to make all local miscellaneous members subject to this section by amendment to the contract of that Riverside County contracting agency, made in the manner prescribed for approval of contracts, or in the case of a new contract, by express provision of the contract. The provisions of this section shall apply with respect to a local miscellaneous member on the effective date of the amendment to the Riverside County contracting agency's contract electing to be subject to this section.

(Added by Stats. 2001, Ch. 782; amended by Stats. 2002, Ch. 664; and by Stats. 2004, Ch. 654; and by Stats. 2006, Ch. 118 and Ch. 846, effective 9/30/06.)

§ 21354.4. 2.5% at Age 55 Benefit Formula—Local Miscellaneous Member

(a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age at retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250

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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 and over	1.2500

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and who elects not to be subject to this subdivision or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353, 21354, and 21354.1, with respect to a local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(Added by Stats. 2001, Ch. 782; amended by Stats. 2002, Ch. 664; and by Stats. 2006, Ch. 118.)

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§ 21354.5. 2.7% at Age 55 Benefit Formula—Local Miscellaneous Member

(a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, 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 and prior service, except service in a category of membership other than that of a local miscellaneous member, with which the member is entitled to be credited at retirement:

Age of retirement	Fraction
50	1.0000
50 1/4	1.0175
50 1/2	1.0350
50 3/4	1.0525
51	1.0700
51 1/4	1.0875
51 1/2	1.1050
51 3/4	1.1225
52	1.1400
52 1/4	1.1575
52 1/2	1.1750
52 3/4	1.1925
53	1.2100
53 1/4	1.2275
53 1/2	1.2450
53 3/4	1.2625
54	1.2800
54 1/4	1.2975
54 1/2	1.3150
54 3/4	1.3325
55 and over	1.3500

(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and elects not to be subject to this subdivision or with respect to service rendered

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after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353, 21354, 21354.1, and 21354.4 with respect to a local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(Added by Stats. 2001, Ch. 782; amended by Stats. 2002, Ch. 664; by Stats. 2004, Ch. 654; and by Stats. 2006, Ch. 118.)

§ 21355. Modification to Federal-State Agreement

Notwithstanding Sections 21353, 21354, and 21354.1, if the modification to the federal-state agreement occurred on or after July 1, 1971, whenever the fraction of final compensation is reduced pursuant to Section 21353, 21354, or 21354.1 because service of a member has been included in the federal system, the reduction shall apply only as to service after the effective date of the member's coverage under the federal system. This section shall apply to those members whose effective date of retirement is on or after July 1, 1971.

(Added by Stats. 1972, Ch. 547; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21356. Service Retirement Allowance—Partial Service Retirement

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

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

(c) For a member who elects pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Sections 21110 through 21115

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

(Added by Stats. 1983, Ch. 1258; amended by Stats. 1985, Ch. 176, effective 7/8/85; and by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379.)

§ 21357. Determination of Formula for Service Retirement Subsequent to Reinstatement

(a) For a member reinstated from service retirement or partial service retirement, the current service pension, or current and prior service pensions, as the case may be, upon his or her service retirement subsequent to the reinstatement, shall be the sum of (1) a current service pension calculated on the basis of service rendered after reinstatement in accordance with the formula applicable to him or her in that service and membership, plus, (2) if the subsequent retirement occurs before he or she renders, after his or her reinstatement, at least one year of state service credited under this system, or if the subsequent service or disability retirement occurs after his or her reinstatement from service or disability retirement pursuant to an election under Section 21465, his or her current service pension, or current and prior service pensions, as the case may be, as it was prior to his or her reinstatement, adjusted for any service on which the pension was based that was included in coverage of the federal system during reinstatement according to the formula applicable to the service in employment for which he or she was retired, and further adjusted according to any change after reinstatement in the provisions governing the calculation of his or her pension that would have applied to him or her had he or she continued in retirement but been subject to the formula applied in the first adjustment; or, for state miscellaneous and state industrial service subject to Section 21076, in lieu of (2), plus (3) a current service pension, or current and prior service pensions, as the

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

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

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

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

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

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

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

(Added by Stats. 1949, Ch. 1402; amended by Stats. 1953, Ch. 1186; by Stats. 1959, Ch. 730; by Stats. 1963, Ch. 2098; by Stats. 1970, Ch. 458; by Stats. 1983, Ch. 1258; and by Stats. 1986, Ch. 199, effective 6/27/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 785; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21358. Reinstatement Within Six Months of Retirement—Subsequent Retirement Within One Year—State Member

Notwithstanding Section 21357, the retirement allowance of a state member, other than a university member, payable upon retirement within one year of reinstatement from an earlier retirement of six months or less and based on service prior to reinstatement shall not include any allowance based on service credited under Section 20963.

This section shall not apply to school members.

(Added by Stats. 1975, Ch. 567; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21359. Retirement After Reinstatement—University Employee

Notwithstanding Section 21357, in determining the method of calculation of subsequent retirement benefits for a university employee who, on the date of reemployment and reinstatement from retirement, did not have the right to elect membership in this system, the service rendered under the University of California

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Retirement Plan after reemployment and reinstatement shall be considered service rendered under this system.

(Added by Stats. 1981, Ch. 737; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2005, Ch. 328.)

§ 21362. 2% at Age 50 Benefit Formula—Patrol or Local Safety Member

(a) The current service pension for patrol members and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the patrol member or local safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her 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 patrol service and local safety service subject to this section with which he or she is credited at retirement:

Age at retirement	Fraction
50	1.0000
50 1/4	1.0175
50 1/2	1.0350
50 3/4	1.0525
51	1.0700
51 1/4	1.0875
51 1/2	1.1050
51 3/4	1.1225
52	1.1400
52 1/4	1.1575
52 1/2	1.1750
52 3/4	1.1925
53	1.2100
53 1/4	1.2275
53 1/2	1.2450
53 3/4	1.2625
54	1.2800
54 1/4	1.2975
54 1/2	1.3150
54 3/4	1.3325
55 and over	1.3500

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(b) (1) Except as otherwise provided in this subdivision, the current service pension and the combined current and prior service pensions under this section for all service to all employers shall not exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation.

(2) For state members, with respect to service for all state employers under this section, the benefit shall not exceed:

(A) Eighty percent of final compensation for state members who retire on or after January 1, 1995, and prior to January 1, 1999.

(B) Eighty-five percent of final compensation for state members who retire on or after January 1, 1999, and prior to January 1, 2000.

(C) Ninety percent of final compensation for state members who retire on or after January 1, 2000.

(3) For local safety members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation.

(4) If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in the contract making the contracting agency subject to the provisions of this section.

(d) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to patrol and local safety members who retire after the date this section becomes applicable to their respective employers.

(e) This section shall not apply to state safety or state peace officer/firefighter members.

(f) With respect to patrol members, this section shall only apply to patrol members who are not employed by the state on or after January 1, 2000.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find

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appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

(Added by Stats. 1968, Ch. 960; amended by Stats. 1969, Ch. 753; by Stats. 1971, Ch. 96; by Stats. 1992, Ch. 673; and by Stats. 1994, Ch. 762, effective 9/23/94; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; by Stats. 1999, Ch. 555 and Ch. 633; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21362.1. Repealed

(Repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21362.2. 3% at Age 50 Benefit Formula—Patrol or Local Safety Member

(a) Upon attaining the age of 50 years or more, the combined current and prior service pension for state patrol members and for local safety members with respect to local safety service rendered to a contracting agency that is subject to the provisions of this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of patrol service or local safety service subject to this section with which he or she is credited at retirement.

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 85 percent of final compensation. For state patrol members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) For patrol members employed by the state on or after January 1, 2000, this section shall supersede Section 21362.

(d) This section shall not apply to state safety or state peace officer/firefighter members.

(e) This section shall not apply to any contracting agency nor its employees unless and until the agency elects to be subject to the provisions of this section by

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amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section becomes operative, by express provision in the contract making the contracting agency subject to this section. The operative date of this section for a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(f) This section shall supersede Section 21362, 21363, 21363.1, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local safety members who retire after the date this section becomes applicable to their respective employers.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

(h) Operation and application of this section is subject to the limitations set forth in Section 21251.13.

(i) Notwithstanding any other provision of this section, this section shall not apply to a state patrol member who is employed by the state for the first time and becomes a state patrol member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5. With respect to related state patrol members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; by Stats. 2010, Ch. 162, effective 8/23/10; and by Stats. 2012, Ch. 665.)

§ 21362.3. Benefit Limitation—CHP Commissioner

(a) Notwithstanding subdivision (b) of Section 21362.2, for the California Highway Patrol Commissioner, with respect to service to all state employers under Section 21362.2, the benefit may not exceed 100 percent of final compensation.

(b) This section shall become inoperative on January 1, 2008, unless a later enacted statute deletes or extends that date.

(Added by Stats. 2002, Ch. 902; amended by Stats. 2003, Ch. 62.)

§ 21363. 2.5% at Age 55 Benefit Formula—State Peace Officer/Firefighter or Local Safety Member

(a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace

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officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter or local safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her 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 state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) (1) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation.

(2) For state members, with respect to service for all state employers under this section, the benefit shall not exceed:

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(A) Eighty percent of final compensation for state members who retire on or after January 1, 1995.

(B) Eighty-five percent of final compensation for state peace officer/firefighter members in State Bargaining Units 6 and 8 who retire on or after January 1, 1999, and prior to January 1, 2000.

(C) Ninety percent of final compensation for state peace officer/firefighter members who retire on or after January 1, 2000.

(3) For local safety members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized

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employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the California State University or the legislative or judicial branch of government, this section shall apply to state peace officer/firefighter members who are not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as, the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

(i) Notwithstanding Section 3517.8 or any provision of an expired memorandum of understanding, this section shall apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011, and is represented by State Bargaining Unit 6 or 7. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(j) (1) This section shall also apply to a state peace officer/firefighter member who is employed by the California State University or judicial branch of

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government or the Legislature for the first time and becomes a state peace officer/firefighter member on or after January 15, 2011.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(k) Subdivisions (i) and (j) do not apply to:

(1) Former state, legislative, judicial branch, or California State University employees employed before January 15, 2011, who return to state or university employment on or after January 15, 2011, and who were not previously subject to this section.

(2) State employees hired prior to January 15, 2011, who were subject to Section 20281.5 during the first 24 months of state employment and who were not previously subject to this section.

(3) State employees hired prior to January 15, 2011, who become subject to representation by State Bargaining Unit 6 or 7 on or after January 15, 2011, and who were not previously subject to this section.

(4) State, legislative, judicial branch, or California State University employees on an approved leave of absence before January 15, 2011, who return to active employment on or after January 15, 2011, and who were not previously subject to this section.

(Added by Stats. 1983, Ch. 1318; amended by Stats. 1984, Ch. 280 and Ch. 1320, effective 9/24/84; by Stats. 1986, Ch. 234, effective 7/2/86; by Stats. 1987, Ch. 807; by Stats. 1988, Ch. 1176; and by Stats. 1994, Ch. 762, effective 9/23/94; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555, Ch. 633, and Ch. 785; by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; by Stats. 2002, Ch. 664; by Stats. 2010, ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21363.1. 3% at Age 55 Benefit Formula—State Peace Officer/Firefighter or Local Safety Member

(a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service, and for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member or local safety member at the date of his or her retirement to equal the fraction of 3 percent of his or her final compensation set forth opposite his or her age at retirement taken to the

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preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	.800
50 1/4	.810
50 1/2	.820
50 3/4	.830
51	.840
51 1/4	.850
51 1/2	.860
51 3/4	.870
52	.880
52 1/4	.890
52 1/2	.900
52 3/4	.910
53	.920
53 1/4	.930
53 1/2	.940
53 3/4	.950
54	.960
54 1/4	.970
54 1/2	.980
54 3/4	.990
55 and over	1.000

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 85 percent of final compensation. For state peace officer/firefighter members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

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(c) This section shall supersede Section 21363 for state peace officer/firefighter members with respect to service rendered for the California State University or the legislative or judicial branch of government.

(d) This section shall also supersede Section 21363 for state peace officer/firefighter members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) This section shall not apply to any contracting agency nor its employees unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section becomes operative, by express provision in the contract making the contracting agency subject to this section. The operative date of this section for a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(f) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local safety members who retire after the date this section becomes applicable to their respective employers.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(h) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(i) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(j) This section shall apply to a state patrol member who is employed by the state for the first time and becomes a state patrol member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5. With respect to related state patrol members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(k) This section shall apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 8. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not

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members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(*l*) Subdivisions (j) and (k) do not apply to:

(1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

(m) (1) Notwithstanding any other provision of this section, this section shall not apply to a peace officer/firefighter member who is employed for the first time by the California State University or the legislative or judicial branch and becomes a state peace officer/firefighter member of the system on or after January 15, 2011.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(n) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to those peace officer/firefighter members in State Bargaining Units 6 and 7 first employed by the state on or after January 15, 2011.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00. Added by Stats. 2010, Ch. 162, effective 8/23/10; repealed and added by Ch. 163, effective 8/23/10; amended by Ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21363.2. Past Service Credit—Specified Patrol Members

(a) This section shall apply only to patrol members in State Bargaining Unit 5.

(b) Patrol members who were previously classified as peace officer/firefighter members shall have their past service under Section 21363 credited, at no cost to the member, under Section 21363.1.

(Added by Stats. 1999, Ch. 778, effective 10/10/99.)

§ 21363.3. 3% at Age 50 Benefit Formula—CSU Police

(a) The combined current and prior service pensions for state peace officer/firefighter members described in Section 20394 is a pension derived from the contributions of the employer sufficient when added to the service retirement

annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at the age of 50 years, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement.

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state peace officer/firefighter member has service under this section, or other safety retirement formulas pursuant to this part with state or local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(c) This section shall apply to state peace officer/firefighter members described in Section 20394 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1. This section may also apply to sworn peace officer/firefighter members described in Section 20394 in related management positions, if the Trustees of the California State University have approved the application in writing to the Board of Administration of the Public Employees' Retirement System.

(d) This section shall supersede Section 21363.1 with respect to peace officer/firefighter service for members employed by the California State University police department on or after the date a memorandum of understanding, or action by the Trustees of the California State University regarding related management positions, makes this section applicable to these members.

(e) This section may not prevent a subsequent memorandum of understanding, or subsequent action by the Trustees of the California State University regarding related management positions, from making this section inapplicable to peace officer/firefighter members first employed by the California State University police department on or after a date specified in a subsequent memorandum of understanding, or subsequent action by the Trustees of the California State University regarding related management positions.

(f) (1) Notwithstanding any other provision of this section, this section shall not apply to a state peace officer/firefighter member described in Section 20394 who

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is employed for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(Added by Stats. 2001, Ch. 785; amended by Stats. 2010, ch. 3, effective 1/8/11.)

§ 21363.4. 3% at Age 50 Benefit Formula—State Peace Officer/Firefighter—Units 6 and 8

(a) Upon attaining the age of 50 years or more, the combined current and prior service pension for a state peace officer/firefighter member described in subdivision (c) who retires or dies on or after January 1, 2006, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of state peace officer/firefighter service, as defined in subdivision (d), subject to this section with which he or she is credited at retirement.

(b) For state peace officer/firefighter members, with respect to service for all state employers under this section, the current service pension and the combined current and prior service pension under this section shall not exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) For purposes of this section, "state peace officer/firefighter member" means state peace officer/firefighter members under this part who, on or after January 1, 2006, are employed by the state and are members of State Bargaining Unit 6 or State Bargaining Unit 8, and may include state peace officer/firefighter members in related managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Human Resources has approved their inclusion in writing to the board.

(d) For purposes of this section, "state peace officer/firefighter service" means service performed by a state peace officer/firefighter member while a member of

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State Bargaining Unit 6 or State Bargaining Unit 8, and may include state peace officer/firefighter service in related managerial, supervisory, or confidential positions or as officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Human Resources has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members and service as defined herein.

(f) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

(g) Notwithstanding any other provision of this section, this section shall not apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 8. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(h) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011, and is represented by State Bargaining Unit 6. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(Added by Stats. 2002, Ch. 1, effective 1/16/02; amended by Stats. 2003, Ch. 617. Added by Stats. 2010, Ch. 162, effective 8/23/10; repealed and added by Ch. 163, effective 8/23/10; amended by Ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21363.5. Repealed

(Repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

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§ 21363.6. Repealed

(Repealed by Stats. 1999, Ch. 555.)

§ 21363.7. Repealed

(Repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21363.8. 3% at Age 50 Benefit Formula—State Peace Officer/Firefighter—Unit 7

(a) Upon attaining the age of 50 years or more, the combined current and prior service pension for a state peace officer/firefighter member described in subdivision (c) who retires or dies on or after January 1, 2004, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of state peace officer/firefighter service, as defined in subdivision (d), subject to this section with which he or she is credited at retirement.

(b) For state peace officer/firefighter members, with respect to service for all state employers under this section, the current service pension and the combined current and prior service pension under this section may not exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) (1) This section shall apply to state peace officer/firefighter members under this part who, on or after January 1, 2004, are employed by the state and are members of State Bargaining Unit 7.

(2) This section may also apply to state peace officer/firefighter members in managerial, supervisory, or confidential positions that are related to the members described in paragraph (1) and to officers or employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the members described in paragraph (1), if the Department of Human Resources has approved their inclusion in writing to the board.

(d) (1) For purposes of this section, "state peace officer/firefighter service" means service performed by a state peace officer/firefighter member while a member of State Bargaining Unit 7.

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(2) That service may include state peace officer/firefighter service in managerial, supervisory, or confidential positions that are related to the members described in paragraph (1) or as officers or employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the members described in paragraph (1), provided the Department of Human Resources has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members subject to this section and state peace officer/firefighter service as defined herein.

(f) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

(g) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011, and is represented by State Bargaining Unit 7. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(Added by Stats. 2002, Ch. 56; amended by Stats. 2010, Ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21364. Authority to Provide Certain Benefit Formula for Specified Local Safety Members

A contracting agency may elect to be subject to Section 21362, 21362.2, or 21363.1 with respect to only those local safety members who are local police officers, those who are local firefighters, and those who are local safety members as defined in Section 20421 as local safety members.

(Added by Stats. 1970, Ch. 1407; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21365. Applicability of Specified Benefit Formula to Kings County Local Safety Members

If, pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, Kings County enters into a binding memorandum of understanding and

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agrees to the application of this section, the county may elect to be subject to Section 21362 with respect to only those local safety members who are county peace officers as defined by Section 20436.

This section shall not apply to Kings County until the county elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made on or after January 1, 1988, by express provision in the contract making the contracting agency subject to this section.

(Added by Stats. 1987, Ch. 813; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21366. Half Pay at Age 55—Patrol or Local Safety Member

The combined prior and current service pensions for patrol members and local safety members, other than local safety members to whom Section 21362, 21368, or 21369 applies, upon retirement at or after age 55 is a pension derived from contributions of the employer that, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member, shall equal a percentage of his or her final compensation, multiplied by the number of years of patrol, fire, police, or county peace officer service, the percentage to be 2 1/2 or, if less, the percentage obtained by division of 50 percent by the difference between age 55 and the member's age at his or her birthday nearest to the date of his or her first entry into any service to which this section, former Section 21252.10, as amended by Chapter 1657 of the Statutes of 1971, or former Section 21252.2, as amended by Chapter 752 of the Statutes of 1969, prior to their repeal by Chapter 1098 of the Statutes of 1972 applied, whether or not the service is credited at retirement, increased, as to service following an absence from employment to which any of those sections applies, by the number of completed years of the absence. Any member entering that service at or after age 55 shall be deemed, for purposes of this section, to have entered the service at age 54.

Upon retirement for service prior to attaining age 55, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of the percentage that would become payable at age 55 or, if greater, the age at which the member would complete 20 years of service under Section 21366 were he or she to continue in employment, multiplied by the factor set forth in the following table for his or her actual age at retirement:

If retirement occurs at age:	The percent for each year of credited service is:
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749

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If retirement occurs at age:	The percent for each year of credited service is:
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983

The amendment to this section by Chapter 941 of the Statutes of 1968 shall apply only to those members retiring on and after December 1, 1968. Current and prior service pensions of those members retired prior to December 1, 1968 shall be continued in accordance with the provisions of this part as they existed on November 30, 1968.

This section shall not apply to any local safety member in the employ of an employer not subject to this section on March 4, 1972.

(Added by Stats. 1945, Ch. 1345; amended by Stats. 1947, Ch. 1140 and Ch. 1526; by Stats. 1968, Ch. 941; by Stats. 1969, Ch. 752 and Ch. 753; by Stats. 1971, Ch. 96; by Stats. 1972, Ch. 1098, operative 4/1/73; and by Stats. 1977, Ch. 368, effective 8/24/77; repealed and added by Stats. 1995, Ch. 379.)

§ 21367. Reduction in Final Compensation—Local Safety Service in Federal System

The fraction or percentage of final compensation, for purposes of calculating the combined prior and current service pensions under Section 21362 or 21366 for a local safety member retiring after the effective date of his or her coverage under the federal system, but prior to termination of the coverage for members in his or her employment, shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month.

This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, or, in the case of contracts made after October 1, 1965, by express provision in the contract making the contracting agency subject to this section.

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This section and Section 21362 or 21366, as the case may be, shall supersede Section 21368 with respect to all service to a contracting agency electing to be subject hereto. However, members in employment of the contracting agency on the effective date of the contract amendment subjecting the agency and its employees to this section and Section 21366 may elect, in accordance with board rules, to continue to be subject to Section 21368, and the contracting agency shall be subject to Section 21368 rather than this section with respect to members who so elect. The election shall cease to be effective if, prior to the member's retirement, his or her employer elects to be subject to Section 21362 or 21369 or elects to terminate coverage of the federal system for persons in the member's employment.

(Added by Stats. 1965, Ch. 1183; amended by Stats. 1967, Ch. 1266; by Stats. 1968, Ch. 941; by Stats. 1969, Ch. 753; by Stats. 1972, Ch. 485; and by Stats. 1981, Ch. 609; repealed and added by Stats. 1995, Ch. 379.)

§ 21368. 1.25% at Age 60 Benefit Formula—Local Safety Member

The combined current and prior service pensions for a local safety member who is an employee of a contracting agency that is subject to this section, is an annual pension that when added to the service retirement annuity that is derived from the accumulated normal contributions of the member shall equal the sum of the following:

(a) A temporary annuity based on age at retirement and length of service computed according to the following formula:

(1) 0.50 times the product of his or her age at retirement and his or her years of credited prior and current service not in excess of 20 years, plus

(2) 0.40 times the product of his or her age at retirement and his or her years of credited prior and current service in excess of 20 years.

(b) The percentage of final compensation set forth opposite his or her age at retirement in the following table multiplied by the number of years of credited current and prior service as a safety member in the employ of all contracting agencies subject to this section at the time of his or her retirement:

If retirement occurs at age:	The percent for each year of credited service is:
50	0.619
50 1/4	0.629
50 1/2	0.640
50 3/4	0.650
51	0.661
51 1/4	0.673
51 1/2	0.684
51 3/4	0.695
52	0.708
52 1/4	0.719
52 1/2	0.731
52 3/4	0.744

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If retirement occurs at age:	The percent for each year of credited service is:
53	0.756
53 1/4	0.769
53 1/2	0.783
53 3/4	0.796
54	0.810
54 1/4	0.824
54 1/2	0.839
54 3/4	0.853
55	0.868
55 1/4	0.884
55 1/2	0.900
55 3/4	0.916
56	0.931
56 1/4	0.949
56 1/2	0.966
56 3/4	0.983
57	1.001
57 1/4	1.020
57 1/2	1.039
57 3/4	1.058
58	1.076
58 1/4	1.098
58 1/2	1.118
58 3/4	1.138
59	1.159
59 1/4	1.183
59 1/2	1.205
59 3/4	1.228
60	1.250
60 1/4	1.275
60 1/2	1.300
60 3/4	1.325
61	1.350
61 1/4	1.375
61 1/2	1.400
61 3/4	1.425
62	1.450
62 1/4	1.475
62 1/2	1.500
62 3/4	1.525
63	1.550
63 1/4	1.575
63 1/2	1.600
63 3/4	1.625
64	1.650

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If retirement occurs at age:	The percent for each year of credited service is:
64 1/4	1.675
64 1/2	1.700
64 3/4	1.725
65	1.750

The temporary annuity under subdivision (a) of this section shall not be subject to the optional settlements under Article 6 (commencing with Section 21450) and shall be payable monthly until the retired member attains or would have attained age 65. Should his or her death occur prior to age 65, the commuted value of any remaining installments shall be paid to his or her designated beneficiary in the manner provided in former Section 21332.5, as added by Chapter 1264 of the Statutes of 1953, for payment of death benefits under optional settlement one.

The agency's liability for prior service shall be in the same proportion to the total reserves required as the years of credited prior service bear to the total years of credited service. The agency's liability for current service shall consist of the remainder of the total reserves required after deducting the liability for prior service and the accumulated normal contributions of the member.

This section shall apply only to a contracting agency that elected prior to October 1, 1965, by express provision of its contract or amendment thereto to be subject hereto.

(Added by Stats. 1957, Ch. 1338; amended by Stats. 1961, Ch. 591; by Stats. 1965, Ch. 1183; by Stats. 1971, Ch. 742, effective 9/21/71; by Stats. 1977, Ch. 368, effective 8/24/77; and by Stats. 1978, Ch. 1180, effective 9/26/78; repealed and added by Stats. 1995, Ch. 379.)

§ 21369. 2% at Age 55 Benefit Formula—State Safety or Local Safety Member

(a) The combined prior and current service pension for a state safety member, and a local safety member with respect to service to a contracting agency subject to this section, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, police, fire, or county peace officer service that is credited to him or her as a state safety member or a local safety member subject to this section at retirement. Notwithstanding the preceding sentence, this section shall apply to the current and prior service pension for any other state safety member based on service to which it would have applied had the member, on July 1, 1971, been in employment described in Section 20403 or 20404.

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(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

If the retirement age occurs at:	The percent for each year of credited service is:
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable

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with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) This section shall not apply to a person whose effective date of retirement is prior to July 1, 1971.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This subdivision shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates. It shall not apply to a local safety member employed by a contracting agency electing to be subject to this section after March 7, 1973, unless the agency elects to be subject to this paragraph by amendment to its contract or by appropriate provision of a contract entered into after this provision is effective and as to any member, the reduction in the percentage of final compensation shall apply to all local safety service to the agency, if any of the local safety service has been included in the federal system.

(g) With the exception of state safety members for service rendered for the California State University, this section shall apply to state safety members who are not employed by the state on or after January 1, 2000.

(h) This section shall not apply to a contracting agency nor its employees until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(i) (1) Notwithstanding Section 3517.8 or any provision of an expired memorandum of understanding, this section shall also apply to a state safety member who is employed by the state or the California State University for the first time and becomes a state safety member of the system on or after January 15, 2011. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of

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understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(j) This section does not apply to:

(1) Former state or California State University employees employed before January 15, 2011, who return to state or university employment on or after January 15, 2011, and who were not previously subject to this section.

(2) State employees hired prior to January 15, 2011, who were subject to Section 20281.5 during the first 24 months of state employment, and who were not previously subject to this section.

(3) State or California State University employees on an approved leave of absence before January 15, 2011, who return to active employment on or after January 15, 2011, and who were not previously subject to this section.

(4) State employees who are subject to Section 21369.2 so long as their memorandum of understanding is in effect. Upon expiration of the memorandum of understanding, notwithstanding Section 3517.8, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(Added by Stats. 1953, Ch. 516; amended by Stats. 1968, Ch. 203 and Ch. 941; and by Stats. 1969, Ch. 752; repealed by Stats. 1969, Ch. 753; added by Stats. 1970, Ch. 1600; amended by Stats. 1971, Ch. 96, Ch. 331, and Ch. 1452; by Stats. 1972, Ch. 485, Ch. 1035, Ch. 1098, Ch. 1328, and Ch. 1438; by Stats. 1977, Ch. 368, effective 8/24/77; by Stats. 1980, Ch. 46, effective 3/27/80; and by Stats. 1994, Ch. 762, effective 9/23/94; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555 and Ch. 633; by Stats. 2010, Ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21369.1. 2.5% at Age 55 Benefit Formula—State Safety Member

(a) The combined current and prior service pensions for state safety members subject to this section with respect to state safety service that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her 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 state safety service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	0.8500

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Age at Retirement	Fraction
50 1/4	0.8625
50 1/2	0.8750
50 3/4	0.8875
51	0.9000
51 1/4	0.9125
51 1/2	0.9250
51 3/4	0.9375
52	0.9500
52 1/4	0.9625
52 1/2	0.9750
52 3/4	0.9875
53	1.0000
53 1/4	1.0320
53 1/2	1.0630
53 3/4	1.0940
54	1.1250
54 1/4	1.1570
54 1/2	1.1880
54 3/4	1.2190
55 and over	1.2500

(b) For state safety members with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer, and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) This section shall supersede Section 21369 for state safety members with respect to service rendered for the California State University.

(d) This section shall also supersede Section 21369 for state safety members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and

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the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(g) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(h) Notwithstanding any other provision of this section, this section shall not apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(i) (1) Notwithstanding Section 3517.8, or any provision of an expired memorandum of understanding, or any other provision of this section, this section shall not apply to a state safety member who is employed by the state or the California State University for the first time and becomes a state safety member of the system on or after January 15, 2011. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00. Added by Stats. 2010, Ch. 162, effective 8/23/10; repealed and added by Ch. 163, effective 8/23/10; amended by Ch. 3, effective 1/8/11; and by Stats. 2012, Ch. 665.)

§ 21369.2. Repealed

(Added by Stats. 2010, Ch.162, effective 8/23/2010, operative 9/1/2010; amended by Stats. 2011, Ch. 296; repealed by Stats. 2012, Ch. 665.)

§ 21369.2. 2% at Age 55 Benefit Formula State Safety Members Units 12, 16, 18 & 19

(a) The combined prior and current service pension for a state safety member, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service

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retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety service, that is credited to him or her as a state safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

Age at Retirement	Fraction
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983
55	1.0000
55 1/4	1.0125
55 1/2	1.0250
55 3/4	1.0375
56	1.0500
56 1/4	1.0625
56 1/2	1.0750
56 3/4	1.0875
57	1.1000
57 1/4	1.1125
57 1/2	1.1250

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Age at Retirement	Fraction
57 3/4	1.1375
58	1.1500
58 1/4	1.1625
58 1/2	1.1750
58 3/4	1.1875
59	1.2000
59 1/4	1.2125
59 1/2	1.2250
59 3/4	1.2375
60 and over	1.2500

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(e) This section shall apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of this section, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(f) This section does not apply to:

(1) Former state employees previously employed before the first day of the pay period following the effective date of this subdivision, who return to state

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employment on or after the first day of the pay period following the effective date of this subdivision.

(2) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who become subject to representation by State Bargaining Unit 12, 16, 18, or 19 on or after the first day of the pay period following the effective date of this subdivision.

(4) State employees on an approved leave of absence employed before the first day of the pay period following the effective date of this subdivision, who return to active employment on or after the first day of the pay period following the effective date of this subdivision.

(Added by Stats. 2010, Ch. 163, effective 8/23/2010, operative 9/1/2010; amended by Stats. 2011, Ch. 296; and by Stats. 2012, Ch. 665.)

§ 21370. 2.35% at Age 56 Benefit Formula—Local Safety Member

(a) The combined prior and current service pension for local safety members with respect to service to a contracting agency subject to this section, upon retirement after attaining 56 years of age, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her 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 service credited to him or her as a local safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining 56 years of age, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for the actual age at retirement:

If retirement occurs at age:	The percent for each year of credited service is:
50	.8565
50 1/4	.8650
50 1/2	.8740
50 3/4	.8830
51	.8920
51 1/4	.9020
51 1/2	.9120

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If retirement occurs at age:	The percent for each year of credited service is:
51 3/4	.9222
52	.9330
52 1/4	.9410
52 1/2	.9490
52 3/4	.9570
53	.9650
53 1/4	.9675
53 1/2	.9700
53 3/4	.9725
54	.9750
54 1/4	.9810
54 1/2	.9870
54 3/4	.9935
55	1.0000
55 1/4	1.0435
55 1/2	1.0870
55 3/4	1.1310
56	1.1750

(c) This section shall apply only to local police officers and county peace officers who are local safety members.

(d) This section shall not apply to persons whose effective date of retirement is prior to January 1, 1985.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This paragraph shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates.

(g) For members who retire prior to January 1, 2000, in no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to the service, equals 75 percent of final compensation. For members who retire on or after January 1, 2000, the allowance

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shall not exceed 85 percent of final compensation. If the pension relates to service for more than one employer and would otherwise exceed the maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to the employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(h) This section shall only apply as an optional contributory retirement formula for this system for local safety groups whose group participated in Federal Old Age and Survivors' Insurance provisions of the Social Security Act on April 1983.

(i) This section shall not apply to a contracting agency nor its employees until the agency and the representative employee organization agree by memorandum of understanding to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts. It shall also be required that the representative employee organizations agree to be subject to this provision.

(j) The operative date of this section with respect to a local safety member shall be the effective date of the amendment to the employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

(Added by Stats. 1984, Ch. 1065; amended by Stats. 1987, Ch. 51, effective 6/17/87; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 633 and Ch. 785; and by Stats. 2000, Ch. 135.)

§ 21371. Retirement Before April 1, 1973—Forestry, Warden, or Law Enforcement Member

The combined current and prior service pensions, disability retirement allowance or continued allowance with respect to a retired member whose effective date of retirement was prior to April 1, 1973, and who was a forestry, warden, or law enforcement member on March 31, 1973, is his or her current service pension, prior service pension, or combined prior and current service pension, disability retirement allowance or continued allowance as it was under this part as it read and applied to him or her on March 31, 1973, subject to adjustment under Article 3 (commencing with Section 21310).

(Added by Stats. 1972, Ch. 1098, operative 4/1/73; repealed and added by Stats. 1995, Ch. 379.)

§ 21372. Forestry Member on March 31, 1973

The combined current and prior service pensions of a state safety member who on March 31, 1973, was a forestry member not subject to former Section 21252.3, as added by Chapter 131 of the Statutes of 1970, shall be determined in accordance with this part as it read and applied to him or her on March 31, 1973,

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and the member shall not become subject to Section 21369 or 21369.1 unless he or she thereafter accepts appointment to a positionin another state department in which he or she is a state safety member, and in that event he or she shall be subject to Section 21369 or 21369.1, as applicable, with respect to all of his or her state safety service.

(Added by Stats. 1972, Ch. 1098, operative 4/1/73; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555.)

§ 21373. Law Enforcement Member on March 31, 1973

The combined current and prior service pensions for a state safety member who on March 31, 1973, was a law enforcement member not subject to Section 21369, shall be determined in accordance with this part as it read and applied to him or her on March 31, 1973, rather than Section 21369 if under those provisions he or she is entitled to a retirement allowance exceeding 2 percent of final compensation per year of his or her law enforcement service, unless he or she elects in writing to be subject to Section 21369 and the election is filed in the office of the board within 30 calendar days following April 1, 1973. Any member who does not so elect and thereafter accepts appointment to a position in another state department in which he or she is a state safety member shall become subject, upon that acceptance, to Section 21369 or 21369.1, as applicable, with respect to all of his or her state safety service.

(Added by Stats. 1969, Ch. 752; repealed and added by Stats. 1972, Ch. 1098, operative 4/1/73; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555.)

§ 21374. Warden Member on March 31, 1973

The combined current and prior service pensions for a state safety member who on March 31, 1973, was a warden member shall be determined in accordance with this part as it read and applied to him or her on March 31, 1973, if on March 31, 1973, he or she was either: (a) in compensated employment in which he or she was a warden member, or (b) on leave of absence from that employment and who either: (1) has attained the age of 55 years, or (2), if on that date he or she was subject to former Section 21252.2, as amended by Chapter 752 of the Statutes of 1969, he or she entered warden service after attaining the age of 35 years, unless he or she elects in writing to be subject to Section 21369 and the election is filed in the office of the board within 30 calendar days following April 1, 1973.

Any member who thereafter accepts an appointment to a position in another state department in which he or she is a state safety member shall become subject to Section 21369 or 21369.1, as applicable, with respect to all of his or her state safety service.

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(Added by Stats. 1972, Ch. 1098, operative 4/1/73; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555.)

§ 21375. Effect of Contracting Agency Amendment to Be Subject to Specified Safety Benefit Formulas

Notwithstanding any other provision of law, and with respect only to an election by a contracting agency to amend its contract to become subject to Section 21369, 21370, or 21363, instead of Section 21366, the following shall apply:

(a) Members who are on the amending agency's active payroll on the effective date of the contract amendment shall elect in writing, within 90 days after the notification by the board of the amendment, to be subject to Section 21363, 21366, or 21370, as applicable, or Section 21369 with respect to all safety service performed for the contracting agency.

(b) Members on the effective date who are former employees of the amending agency and whose service for the amending agency was subject to Section 21366 or Section 21369, shall retain their rights under the formula in effect at the time their service was credited.

(c) Former members who upon reentry into state service elect to redeposit contributions, shall be subject to Section 21363, 21369, or 21370, as applicable, with respect to all safety service performed for the amending agency prior to the effective date of the contract amendment.

(d) Notwithstanding Section 21357, a former member who reinstates to the amending agency as a local safety member shall elect within 90 days of the reinstatement whether to be subject to Section 21363, 21369, or 21370, as applicable, or Section 21366 with respect to all service with that contracting agency prior to the effective date of the contract amendment. The election shall be effective only if the reinstated member remains in the employment for at least one year subsequent to reinstatement.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1265; by Stats. 1947, Ch. 1140; by Stats. 1949, Ch. 1215 and Ch. 1218; by Stats. 1951, Ch. 1680; by Stats. 1959, Ch. 1274; by Stats. 1961, Ch. 897; by Stats. 1963, Ch. 1056; and by Stats. 1967, Ch. 84, Ch. 1454 and Ch. 1594; repealed by Stats. 1972, Ch. 266; added by Stats. 1980, Ch. 46, effective 3/27/80; amended by Stats. 1985, Ch. 1114; by Stats. 1988, Ch. 331, effective 7/14/88; and by Stats. 1989, Ch. 1143; renumbered by Stats. 1995, Ch. 379.)

§ 21376. Effect of Contracting Agency Amendment to Be Subject to Section 21370

Whenever a contracting agency amends its contract to become subject to Section 21370 instead of Section 21369, a member who previously elected, pursuant to Section 21375, to remain subject to Section 21366, or a member

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who entered employment under Section 21366 after attaining age 30 and continued to be subject to that section, shall elect in writing within 90 days of notification by the board whether to be subject to Section 21366 or Section 21370.

(Added by Stats. 1985, Ch. 1114; amended by Stats. 1986, Ch. 637; renumbered by Stats. 1995, Ch. 379.)

§ 21380. Reduction in Allowance for Retirement Prior to Specified Age—State Safety Member

If a state safety member retires for service before attaining age 55, or, in the case of the member who continues subject to the current and prior service pension provision for retirement of warden and forestry members at age 60, his or her prior and current service pensions shall be reduced to that amount that the value of the pensions as deferred to age 55, or age 60, respectively, will purchase at the actual age of retirement on the basis of the mortality tables and actuarial interest rate in effect on December 1, 1970, under this system with respect to those members.

(Added by Stats. 1963, Ch. 2031; amended by Stats. 1971, Ch. 742; and by Stats. 1973, Ch. 389; repealed and added by Stats. 1995, Ch. 379.)

§ 21381. Minimum Retirement Allowance

(a) The retirement allowance referred to in this section excludes that portion of a member's service retirement annuity that was purchased by his or her accumulated additional contributions.

(b) If a member entitled to credit for prior service retires after attaining the compulsory age for service retirement applicable to him or her, or if there is no compulsory age for service retirement applicable to the member and the member attains age 70, or if a member is entitled to be credited with 20 years of continuous state service and retires after attaining age 60, and his or her retirement allowance is less than one thousand two hundred dollars ($1,200) per year and less than his or her final compensation, his or her prior or current service pension, as the case may be, shall be increased so as to cause his or her total retirement allowance from this system, and from the retiring annuities system of the university, if any, to amount to one thousand two hundred dollars ($1,200) per year, or his or her final compensation, whichever is less.

If a member to whom this section applies is employed by more than one employer, his or her aggregate retirement allowances shall be taken into account irrespective of the employer.

(Added by Stats. 1955, Ch. 1704; amended by Stats. 1957, Ch. 936; by Stats. 1972, Ch. 266; by Stats. 1974, Ch. 234; by Stats. 1977, Ch. 852, effective 9/16/77; and by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

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§ 21383. Prior Service Pensions—State Members

The prior service pensions for state members are derived from contributions of the state.

(Repealed and added by Stats. 1995, Ch. 379.)

§ 21384. Prior Service Pension—Local Members

The prior service pension for local members is a pension derived from the contributions of the employing contracting agency if and as provided for in the contract between the board and the contracting agency.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 21385. Prior Service Pension—Reinstated Members

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

The prior service pension otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his or her election under Section 21461 shall be reduced by the actuarial equivalent, on the date of

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retirement subsequent to reinstatement, of the amount, if any (converted as below), by which:

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

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

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

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

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

(Added by Stats. 1949, Ch. 1402; amended by Stats. 1953, Ch. 1186; by Stats. 1959, Ch. 730; by Stats. 1963, Ch. 2098; and by Stats. 1970, Ch. 458; repealed and added by Stats. 1995, Ch. 379.)

§ 21389. Repealed

(Repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21390. Benefit Limit—Local Safety Member—Retired 2002 or Later

Notwithstanding Sections 21362, 21362.2, 21363, 21363.1, 21369, 21370, and 21389, for local safety members who retire on or after January 1, 2002, and with respect to all local safety service rendered to a contracting agency that is subject to any of those sections, the benefit limit shall be 90 percent of final compensation.

(Added by Stats. 2001, Ch. 796.)

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ARTICLE 5. DISABILITY RETIREMENT BENEFITS

§ 21400. Industrial Disability Retirement—Safety Members

(a) A safety member who retires on or after January 1, 2013, for industrial disability shall receive a disability retirement benefit equal to the greater of the following:

(1) Fifty percent of his or her final compensation, plus an annuity purchased with his or her accumulated additional contributions, if any.

(2) A service retirement allowance, if he or she is qualified for service retirement.

(3) An actuarially reduced factor, as determined by the actuary, for each quarter year that his or her service age is less than 50 years, multiplied by the number of years of safety service subject to the applicable formula, if he or she is not qualified for service retirement.

(4) Nothing in this section shall require a member to receive a lower benefit than he or she would have received prior to January 1, 2013, as the law provided prior to that date.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

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

Note: Former Section 21400 was repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.

§ 21401. Repealed

(Repealed by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21402. Repealed

(Repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21403. Repealed

(Repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21404. Retirement Allowance Payable at Minimum Age—Local Miscellaneous Member

Upon retirement for disability, a local miscellaneous member who is not subject to Section 21427 and who has attained the minimum age at which he or she may retire for service without an actuarial discount because of age, shall receive his or her service retirement allowance.

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(Amended by Stats. 1945, Ch. 1265; by Stats. 1946, 1st Ex. Sess., Ch. 99; by Stats. 1957, Ch. 937; by Stats. 1970, Ch. 1361; and by Stats. 1971, Ch. 170, operative 7/1/71; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1002.)

§ 21405. Retirement Allowance Payable at Minimum Age—Local Safety Member

Upon retirement for nonindustrial disability, a local safety member who has attained the minimum age at which he or she may retire for service without an actuarial discount because of age, shall receive his or her service retirement allowance.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140; by Stats. 1957, Ch. 936; repealed and added by Stats. 1995, Ch. 379.)

§ 21406. Industrial Disability—Patrol Member

Upon retirement of a patrol member for industrial disability he or she shall receive a disability retirement allowance of 50 per cent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

Note: Former Section 21406 was repealed by Stats. 1995, Ch. 850.

§ 21407. Industrial Disability—State Peace Officer/Firefighter or Local Safety Member

Upon retirement of a state peace officer/firefighter member or a local safety member subject to Section 21363, 21363.1, 21363.3, or 21363.4 for industrial disability, the member shall receive a disability allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1988, Ch. 1176; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555; and by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21408. Industrial Disability—State Miscellaneous Member

Upon the industrial disability retirement of a state miscellaneous member subject to Section 21151, the disability allowance shall be 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she

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shall receive his or her service retirement allowance, if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1984, Ch. 1320, effective 9/24/84; amended by Stats. 1986, Ch. 385, effective 7/17/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 231.)

§ 21409. Industrial Disability—State Miscellaneous or Industrial Member—Second Tier

Upon the industrial disability retirement of a state miscellaneous member within Section 21151, or a state industrial member whose service is subject to Section 21076, the disability allowance shall be 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contribution, if any, or if qualified for service retirement, he or she shall receive his or her service retirement allowance, if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1986, Ch. 199, effective 6/27/86; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 231.)

§ 21410. Industrial Disability—State Member Subject to Section 21159

Notwithstanding Sections 21406, 21407, 21408, 21409, and 21411, any state member who becomes subject to Section 21159 on or after January 1, 1993, and retires for industrial disability because of incapacity for the performance of duties in any employment with the state employer, as determined by the Department of Human Resources, shall receive a disability retirement allowance of 60 percent of the member's final compensation plus an annuity purchased with the member's accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive the service retirement allowance if the allowance, after deducting the annuity, is greater.

Benefits payable under this section are payable solely to state members employed in state bargaining units subject to Section 21159.

(Added by Stats. 1992, Ch. 103, effective 6/30/92; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 231; and by Stats. 2012, Ch. 665.)

§ 21411. Industrial Disability—State Safety Member

Upon retirement of a state safety member for industrial disability he or she shall receive a disability retirement allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall

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receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1947, Ch. 1133; amended by Stats. 1972, Ch. 1098, operative 4/1/73; repealed and added by Stats. 1995, Ch. 379.)

§ 21412. Industrial Disability; Annuity—State Industrial Member

Upon retirement of a state industrial member for industrial disability he or she shall receive a disability retirement allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1974, Ch. 1439; repealed and added by Stats. 1995, Ch. 379.)

§ 21413. Industrial Disability; Annuity—Local Safety Member

Upon retirement of a local safety member for industrial disability he or she shall receive a disability retirement allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1955, Ch. 1411; by Stats. 1970, Ch. 1361; and by Stats. 1971, Ch. 170, operative 6/21/71; repealed and added by Stats. 1995, Ch. 379.)

§ 21414. Industrial Disability; Annuity—Local Miscellaneous Member

Upon retirement of a local miscellaneous member for industrial disability, he or she shall receive a disability allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Added by Stats. 1973, Ch. 1192; repealed and added by Stats. 1995, Ch. 379.)

§ 21415. Change in Disability Retirement Status—State Peace Officer/Firefighter or State Safety Member

Notwithstanding any provision of this part to the contrary, a retired state safety or state peace officer/firefighter member who, before January 1, 1986, was eligible for an industrial disability allowance and was living on or after December 30, 1989, but elected, instead, for a nonindustrial disability allowance may elect for an industrial disability retirement allowance. A change in retirement

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status pursuant to this section does not, in itself, constitute a basis for a change in the optional settlement or the beneficiary designation. The industrial disability allowance shall be calculated as if former Section 21293.5, as repealed by Chapter 557 of the Statutes of 1985, was never enacted and in no event shall be in an amount less than his or her nonindustrial disability allowance.

The allowance elected pursuant to this section shall be paid only on and after the effective date of the election and nothing in this section shall be construed as providing for any increase in benefits payable prior to the effective date of the election, or for any claim for the increase. The effective date of an election shall be no earlier than the first day of the month following the month in which the election is received by the board.

Any state safety member who applies for an election pursuant to this section shall have the burden of proving that he or she was, by competent medical evidence, industrially disabled at retirement and the duties of his or her job at retirement.

The board has no duty to identify, locate, or notify any annuitant who may be eligible for the benefits provided by this section.

(Added by Stats. 1989, Ch. 276; amended by Stats. 1990, Ch. 826, effective 9/14/90; renumbered by Stats. 1995, Ch. 379.)

§ 21416. Industrial Disability—State Safety Member—25 Years in Corrections

Notwithstanding any provision of this part, a state safety member employed by the Department of Corrections or the Department of the Youth Authority with 25 years or more of service credit as such, shall, upon retirement on or after January 1, 1982, for industrial disability, receive the disability allowance provided for in Section 21411 or a disability allowance equal to 1/50th of final compensation multiplied by the number of years of state safety member service in the Department of Corrections or the Department of the Youth Authority with which the member is credited at retirement.

This section shall not become operative for any eligible member, until it is first agreed to in a memorandum of understanding reached between the state and the exclusive representatives of the employees in State Bargaining Unit No. 6 pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, and approved by the Legislature pursuant to law.

Payment of benefits pursuant to this section for any eligible member shall be retroactive to the effective date of the retirement of the member.

(Added by Stats. 1984, Ch. 1756; amended by Stats. 1986, Ch. 199, effective 6/27/86; renumbered by Stats. 1995, Ch. 379.)

§ 21417. Repealed

(Repealed by Stats. 2004, Ch. 231.)

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§ 21418. Allowance Derived from Accumulated Normal Contributions

The disability retirement allowance for a patrol, state safety, state peace officer/firefighter, state industrial, or local safety member retired because of industrial disability shall be derived from his or her accumulated normal contributions and the contributions of his or her employer.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1972, Ch. 1098; by Stats. 1974, Ch. 1439; and by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379.)

§ 21419. Advanced Disability Pension Payments; Reimbursement to Local Agency

This system 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 allowance, and reimburse the local agency that has made the advanced 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. 1985, Ch. 1254, effective 9/30/85; amended by Stats. 1989, Ch. 1464, effective 10/2/89; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 877.)

§ 21419.5. Interim Disability Allowance of State Member; Reimbursement to State Agency

The system shall deduct the amount of interim disability allowance made to a state member pursuant to subdivision (i) of Section 19253.5 from the member's retroactive disability allowance, and reimburse the state agency that has made the interim disability allowance payments. If the retirement disability allowance is not sufficient to reimburse the total interim disability allowance payments, an amount no greater than 10 percent of the member's monthly disability allowance shall be deducted and reimbursed to the state agency until the total interim disability allowance payments have been repaid. The state member and this system may agree to any other arrangements or schedule for the member to repay the interim disability allowance payments. If the disability application is denied, the system shall not be responsible for reimbursing the amount of interim disability allowance paid to the member by the state agency.

(Added by Stats. 1999, Ch. 310.)

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§ 21420. Contributions Made in Other Category of Membership; Annuity

If a member retired for industrial disability has made contributions in respect to service rendered in a category of membership other than the category in which he or she was at the time he or she suffered the disability or incurred the disease causing his or her retirement for industrial disability, in addition to the disability retirement allowance to which he or she is otherwise entitled under this article, he or she shall receive an annuity purchased with his or her accumulated normal contributions made in respect to service rendered in the other category of membership.

(Added by Stats. 1953, Ch. 1186, operative 10/1/53; repealed and added by Stats. 1995, Ch. 379.)

§ 21422. Disability Retirement Allowance Derived From Accumulated Contributions and Employer Contributions

Every member retired for disability for whom a different disability retirement allowance is not prescribed by any other provision of this article, including a member who is entitled to an industrial disability retirement allowance if the disability is industrial but who retires for nonindustrial disability shall receive a disability retirement allowance which shall consist of:

(a) An annuity that is the actuarial equivalent of his or her accumulated contributions at the time of retirement; and

(b) If, in the opinion of the board, his or her disability is not due to intemperance, willful misconduct or violation of law on his or her part, a disability retirement pension derived from the contributions of the employer.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1946, 1st Ex. Sess., Ch. 99; by Stats. 1947, Ch. 1133 and Ch. 1140; by Stats. 1949, Ch. 298; by Stats. 1955, Ch. 1705; and by Stats. 1972, Ch. 767, Ch. 1098, and Ch. 1328, operative 4/1/73; repealed and added by Stats. 1995, Ch. 379.)

§ 21423. Disability Retirement Allowance

The disability retirement pension, other than an industrial disability retirement pension, for a member, other than a member who is subject to Section 21424 or 21427, shall be such an amount as with that portion of his or her annuity provided by his or her accumulated normal contributions, shall make his or her disability retirement allowance equal to one of the following:

(a) Ninety percent of one-fiftieth of his or her final compensation multiplied by the number of years of service credited to him or her.

(b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of one-fiftieth of his or her final compensation multiplied by the number of years of service that would be creditable to him or her if his or her service were to continue until

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attainment by him or her of the age of 60 years, but in that case the retirement allowance shall not exceed one-third of final compensation.

This subdivision is not applicable to members who are not entitled, at the time of retirement, to be credited with at least 10 years of state service.

(c) If qualified for service retirement, the member shall receive his or her service retirement allowance if that allowance is greater than the disability retirement allowance provided by this section.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1265; by Stats. 1953, Ch. 1186; by Stats. 1965, Ch. 1245; by Stats. 1972, Ch. 767, operative 4/1/73; and by Stats. 1995, Ch. 379 and Ch. 850; and amended and renumbered by Stats. 1997, Ch. 951; amended by Stats. 1998, Ch. 88, effective 6/30/98; and Ch. 91, effective 7/3/98; by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; and by Stats. 2002, Ch. 664.)

§ 21424. Disability Retirement Allowance—State Miscellaneous or Industrial Member—Second Tier

The nonindustrial disability retirement pension for state miscellaneous or state industrial service subject to Section 21076 shall be one of the following:

(a) Ninety percent of the factor applicable at the age of 65 years as set forth in Section 21076 multiplied by final compensation, multiplied by the number of years of service credited to him or her.

(b) If the nonindustrial disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of the benefit that would be payable to the member had the member continued in employment until the age of 65 years, but in that case the retirement allowance may not exceed one-third of the final compensation. This subdivision is not applicable to members who have not been credited, at the time of retirement, with at least 10 years of state service.

(c) If the nonindustrial disability retirement allowance is derived from this section and Section 21423, and would otherwise exceed the maximums provided by these sections, the pension payable with respect to each section shall be reduced in the same proportion as the allowance bears to the total allowance computed as if there were no limit, so that the total of the pensions shall equal the maximum allowed.

(d) If qualified for service retirement, the member shall receive his or her service retirement allowance if that allowance is greater than the nonindustrial disability retirement allowance provided by this section.

(Added by Stats. 1984, Ch. 674, effective 8/18/84; amended by Stats. 1986, Ch. 199, effective 6/27/86; and by Stats. 1988, Ch. 963; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 231.)

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§ 21426. Disability Retirement Not to Exceed Service Retirement

In no event shall the disability retirement pension under Sections 21422 and 21423 be more than sufficient to make the disability retirement allowance, exclusive of any annuity provided by accumulated additional contributions, exceed the service retirement allowance, exclusive of any annuity purchased by accumulated additional contributions, receivable by the member should he or she retire at age 60.

(Added by Stats. 1945, Ch. 123; repealed by Stats. 1945, Ch. 1265; added by Stats. 1946, 1st Ex. Sess., Ch. 99; repealed and added by Stats. 1995, Ch. 379.)

§ 21427. Improved Disability Retirement Allowance—Local Member

The disability retirement allowance of a local miscellaneous and local safety member whose effective date of retirement for nonindustrial disability is after June 14, 1975, and whose last employment preceding retirement was with an employer subject to this section shall be increased by an amount that, when added to the disability retirement allowance otherwise payable under this part will make his or her disability retirement allowance, exclusive of the annuity payable from accumulated additional contributions, equal to 30 percent of final compensation if he or she has five years of service plus 1 percent of final compensation for each year of service in excess of five years to a maximum of 50 percent of final compensation.

In no event shall the disability retirement pension be more than sufficient to make the disability allowance equal the service retirement allowance, exclusive of any annuity purchased by accumulated additional contributions, receivable by the member were he or she to continue in service and retire at age 60.

The added amount payable under this section shall be a liability solely of employers subject to this section. In the case of a member who has service with more than one employer, the liability for the disability retirement pension provided by this section shall be apportioned on the basis of the member's service to any employers who have elected to be subject to this section.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendments to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after June 14, 1975, by express provision in the contract making the contracting agency subject to the provisions of this section.

This section shall only apply to members who retire for disability on and after the date the agency elects to be subject to this section.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch.1265; by Stats. 1946, 1st Ex. Sess., Ch. 99; by Stats. 1947, Ch. 1140; by Stats. 1953, Ch. 1186; by Stats. 1957, Ch. 937; by Stats. 1970, Ch. 1361; and by Stats. 1971, Ch. 170;

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repealed by Stats. 1972, Ch. 767; added by Stats. 1975, Ch. 119, effective 6/14/75; repealed and added by Stats. 1995, Ch. 379.)

§ 21428. Increased Industrial Disability Retirement Allowance If Totally Disabled—Local Member

Upon retirement of a local safety member or a local miscellaneous member for industrial disability, if the member is totally disabled he or she shall receive in lieu of the allowance otherwise provided by this article a disability retirement allowance equal to 75 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any.

For purposes of this section, "totally disabled" means inability to perform substantial gainful employment and the presumptions contained in Section 4662 of the Labor Code shall also be applied to the determination of total disability.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of contracts made after January 1, 1974, by express provision in the contract making the contracting agency subject to the provisions of this section.

(Added by Stats. 1973, Ch. 1192; repealed and added by Stats. 1995, Ch. 379.)

§ 21428.1. Increased Industrial Disability Retirement Allowance—Patrol Member

(a) Upon retirement of a patrol member for industrial disability as the result of a single event that results in serious bodily injury, the member shall receive the higher of the allowance provided by Section 21406, or, the disability allowance otherwise provided pursuant to this section equal to 3 percent of his or her final compensation multiplied by the number of years of patrol service credited to him or her plus an annuity purchased with his or her accumulated additional contributions, if any. This section shall not apply to a disability that manifests more than six months after the effective date for the industrial disability retirement. This section does not entitle the member to an industrial disability retirement if the member would not otherwise be eligible for an industrial disability retirement.

(b) This section shall apply only to serious bodily injuries, and shall not be applied to disabilities that are the result of any of the following:

(1) Cumulative trauma.

(2) Cumulative injuries, including, but not limited to, heart conditions, stroke, stress, anxiety, or diabetes.

(3) Presumptive injuries or illnesses as described in Chapter 1 (commencing with Section 3200) of Part 1 of Division 4 of the Labor Code.

(4) Stress-related disabilities.

(5) Physical disability having mental origin.

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(c) If a patrol member has other service credit as a state peace officer/firefighter member, state safety member, local safety member, state miscellaneous, state industrial, or local miscellaneous member under this system, the cumulative benefit pursuant to this section, including an annuity purchased with his or her accumulated contributions, shall not exceed 90 percent of final compensation.

(d) For purposes of this section, "serious bodily injury" includes any of the following:

(1) Total loss of sight in one or both eyes.

(2) Total loss of hearing in both ears.

(3) Amputation or total loss of function in a hand, arm, foot, or leg.

(4) A spinal cord injury resulting in paralysis which causes the complete loss of function in a hand, arm, foot, or leg.

(5) Physical injury to the brain resulting in serious cognitive disorders or paralysis which causes the complete loss of function in a hand, arm, foot, or leg.

(6) Injury to a major internal organ which substantially limits one or more "major life activities." Major life activities are functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and performing substantial gainful employment.

(7) Any other serious physical injury that results in the inability to perform substantial gainful employment.

(e) This section applies only to those patrol members who are described by at least one of the following:

(1) Employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section.

(2) Excluded from the definition of state employee in subdivision (c) of Section 3513.

(3) Employed by the executive branch of government and not a member of the civil service.

(f) In the event of a dispute regarding the applicability of this section, the board shall proceed with retirement pursuant to any other section that may apply and with the payment of any benefits that are payable pursuant to any other section when this section is not applicable. If the board subsequently determines that this section is applicable, an amount equal to the benefits paid shall be deducted from the benefits payable pursuant to this section because of the determination.

(Added by Stats. 2006, Ch. 240, effective 9/13/06.)

§ 21430. Improved Industrial Disability Retirement Allowance—Percentage of Permanent Disability—Local Safety Member

Upon retirement of a local safety member for industrial disability, the member shall receive in lieu of the allowance otherwise provided by this article

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a disability retirement allowance in the amount of the percentage of final compensation equal to the percentage of permanent disability determined by the Workers' Compensation Appeals Board for the purposes of permanent disability payments pursuant to Article 3 (commencing with Section 4650) of Chapter 2 of Part 2 of the Labor Code with respect solely to the injury resulting in the disability retirement and giving effect to Section 4750 of the Labor Code, but not less than 50 percent nor in excess of 90 percent of the member's final compensation.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of contracts made after June 14, 1975, by express provision in such contract making the contracting agency subject to the provisions of this section.

This section shall only apply to members who retire for disability on and after the date the agency elects to be subject to this section.

(Added by Stats. 1975, Ch. 119, effective 6/14/75; repealed and added by Stats. 1995, Ch. 379.)

§ 21431. Repealed

(Repealed by Stats. 2003, Ch. 519.)

§ 21432. Earnings While Receiving a Disability Retirement Allowance; Limitations and Effect

If, prior to attaining the minimum age for voluntary retirement for service applicable to members of his or her class, a recipient of a disability retirement allowance, other than one for industrial disability, engages in a gainful occupation not in state service, the board shall reduce his or her monthly disability retirement pension to an amount that, when added to the compensation earned monthly by him or her, shall not exceed the amount of the maximum compensation earnable by a person holding the position that he or she held at the time of his or her retirement, or if that position has been abolished, the maximum compensation earnable by a person holding it immediately prior to its abolition.

If his or her earnings are further altered, the board may further alter his or her disability retirement pension to the lower of the following amounts:

(a) The amount of the disability retirement pension upon which he or she was originally retired.

(b) An amount that, when added to the compensation earned by him or her shall equal the amount of the maximum compensation earnable by a person holding the position that he or she held at the time of his or her retirement, or, if that position has been abolished, the maximum compensation earnable by a person holding it immediately prior to its abolition.

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The recipient of a disability allowance shall furnish earnings information as requested by the board to administer this section. If the recipient fails to furnish requested information, the disability retirement pension shall be discontinued until such time as the requested information is furnished. If the requested information is furnished, the disability retirement pension shall be reinstated.

When he or she reaches the minimum age for voluntary retirement for service applicable to members of his or her class his or her retirement allowance shall be made equal to the amount it would be if not reduced under this section, and shall not again be modified for any cause.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1265; by Stats. 1947, Ch. 655; by Stats. 1951, Ch. 612; by Stats. 1961, Ch. 407 and Ch. 2169; by Stats. 1972, Ch. 266; and by Stats. 1985, Ch. 207, effective 7/10/85; repealed and added by Stats. 1995, Ch. 379.)

ARTICLE 6. OPTIONAL SETTLEMENTS

§ 21450. Duty to Provide Written Explanation of Benefits

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

(Added by Stats. 1989, Ch. 249; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 21451. Election, Revocation or Change of Optional Settlement

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

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

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(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 1498; by Stats. 1963, Ch. 2031; by Stats. 1965, Ch. 1183; by Stats. 1971, Ch. 742; by Stats. 1972, Ch. 1327 and Ch. 1328; by Stats. 1975, Ch. 295, effective 8/22/75; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1980, Ch. 481; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 1997, Ch. 951.)

§ 21452. Effect of Option; Law Enforcement Members Retired Prior to October 1965

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

(Added by Stats. 1963, Ch. 2031; amended by Stats. 1965, Ch. 1183; repealed and added by Stats. 1995, Ch. 379.)

§ 21453. Timing of Election, Revocation, or Change of Election

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

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

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

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 837; by Stats. 1951, Ch. 612, and Ch. 1680; by Stats. 1953, Ch. 1186; by Stats. 1955, Ch. 1705; by Stats. 1957, Ch. 1226; by Stats. 1979, Ch. 240; by Stats. 1982, Ch. 1231; and by Stats. 1987, Ch. 91; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2014, Ch. 237.)

§ 21454. Modification of Optional Settlement Election Upon Divorce, Annulment, or Legal Separation

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

(Added by Stats. 1974, Ch. 85; repealed and added by Stats. 1995, Ch. 379.)

§ 21455. Optional Settlement 1

Optional settlement 1 consists of the right 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 beneficiary or estate.

(Added by Stats. 1945, Ch. 123; repealed and added by Stats. 1995, Ch. 379.)

§ 21456. Optional Settlement 2

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

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

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

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

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

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

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

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

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

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

(Added by Stats. 1945, Ch. 123; amended by Stats. 1990, Ch. 29, effective 3/20/90, operative 1/1/90; by Stats. 1992, Ch. 524; and by Stats. 1993, Ch. 639; repealed and added by Stats. 1995, Ch. 379.)

§ 21457. Optional Settlement 3

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

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

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

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

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

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

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

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

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

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

(Added by Stats. 1945, Ch. 123; amended by Stats. 1990, Ch. 29, effective 3/20/90, operative 1/1/90; by Stats. 1992, Ch. 524; and by Stats. 1993, Ch. 639; renumbered by Stats. 1995, Ch. 379.)

§ 21458. Optional Settlement 4

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

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

(Added by Stats. 1945, Ch. 123; by Stats. 1988, Ch. 602; amended by Stats. 1953, Ch. 1186, operative 10/1/53; and by Stats. 1990, Ch. 29, effective 3/20/90, operative 1/1/90; renumbered by Stats. 1995, Ch. 379.)

§ 21459. Waiver of Provision for Increase

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

(Added by Stats. 1990, Ch. 29, effective 3/20/90, operative 1/1/90; renumbered by Stats. 1995, Ch. 379.)

§ 21460. Qualified Joint and Survivor Annuity

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

For purposes of this section, a member's retirement allowance shall be determined without regard to any limitation required pursuant to Section 415 of

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Title 26 of the United States Code but the amount payable to the spouse shall be subject to those limits as if it were the retirement allowance of the member.

(Added by Stats. 1992, Ch. 374; renumbered by Stats. 1995, Ch. 379.)

§ 21461. Temporary Annuity—Members Prior to 2002

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

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

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

(b) The temporary annuity under subdivision (a) shall not be subject to further optional settlement under this article and shall be payable monthly as an addition to the member's monthly life income beginning on his or her effective date of retirement and continuing until the member reaches age 59 1/2 or any whole age between ages 60 and 68, as designated by the member at the time of his or her retirement. If his or her death occurs prior to that age, the commuted value of any remaining installments shall be paid to his or her designated beneficiary in a lump sum.

(Added by Stats. 1959, Ch. 1037; amended by Stats. 1963, Ch. 772; by Stats. 1965, Ch. 1183; by Stats. 1967, Ch. 1266; by Stats. 1980, Ch. 1168, effective 9/29/80; by Stats. 1989, Ch. 497, effective 9/19/89; and by Stats. 1991, Ch. 892, effective 10/14/91; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 785.)

§ 21461.5. Temporary Annuity—Members After 2001

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

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

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

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

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for the period remaining until the member would have attained that age shall be paid to the member's designated beneficiary in a lump sum.

(Added by Stats. 2001, Ch. 793.)

§ 21462. Conditions for Change in Optional Settlement or Beneficiary

(a) (1) Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving a life contingency of the beneficiary, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary.

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

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

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

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

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(Added by Stats. 1974, Ch. 1115; amended by Stats. 1975, Ch. 234; by Stats. 1981, Ch. 963; by Stats. 1982, Ch. 863; by Stats. 1985, Ch. 176, effective 7/8/85; Ch. 520, and Ch. 521; by Stats. 1987, Ch. 346; and by Stats. 1992, Ch. 524; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2013, Ch. 778.)

§ 21463. Increased Allowance Payable if Beneficiary Predeceases Member

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

(Added by Stats. 1989, Ch. 426; amended by Stats. 1990, Ch. 29, effective 3/20/90, operative 1/1/90; renumbered by Stats. 1995, Ch. 379.)

§ 21464. Retired Member Right to Elect Optional Settlement; Conditions

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

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

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

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

(Added by Stats. 1982, Ch. 1154; amended by Stats. 1985, Ch. 299; by Stats. 1987, Ch. 346; and by Stats. 1988, Ch. 963; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21465. Optional Settlement 5 for Specified Employees

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

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

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

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

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

(Added by Stats. 1998, Ch. 820, effective 9/25/98; amended by Stats. 1999, Ch. 785; Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; by Stats. 2003, Ch. 10, effective 5/14/03; and Ch. 62; and by Stats. 2012, Ch. 665.)

§ 21465.5. Repealed

(Repealed by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

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ARTICLE 1. GENERAL PROVISIONS

§ 21490. Beneficiary Designation—Generally

(a) Except as provided in subdivision (b), a member may at any time, including, but not limited to, at any time after reaching retirement age, designate a beneficiary to receive the benefits as may be payable to his or her beneficiary or estate under this part, by a writing filed with the board.

(b) (1) No designation may be made in derogation of the community property share of any nonmember spouse when any benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 2610 of the Family Code.

(2) No designation may be made by an unmarried member who has attained the minimum age for voluntary service retirement applicable to the member in his or her last employment preceding death if that designation is in derogation of the rights of the member's unmarried, dependent children who are under the age of 18 years at the time of the member's death.

(c) The designation, subject to conditions imposed by board rule, may be by class, in which case the members of the class at the time of the member's death shall be entitled as beneficiaries. The designation shall also be subject to the board's conclusive determination, upon evidence satisfactory to it, of the existence, identity or other facts relating to entitlement of any person designated as beneficiary, and payment made by this system in reliance on any determination made in good faith, notwithstanding that it may not have discovered a beneficiary otherwise entitled to share in the benefit, shall constitute a complete discharge and release of this system for further liability for the benefit.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612, effective 10/1/51; by Stats. 1963, Ch. 2098, operative 10/1/63; by Stats. 1988, Ch. 542, effective 8/23/88; and by Stats. 1992, Ch. 163, operative 1/1/94; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1002.)

§ 21491. Beneficiary Designation by Survivor

A person who is entitled to receive a monthly allowance as a survivor of a deceased person may designate a beneficiary to receive the pro rata allowance payable following his or her death. The beneficiary designation shall be filed by the survivor with the board in writing in order to be effective, and the designation shall be subject to all laws applicable to designations of

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beneficiaries. A survivor may revoke his or her beneficiary designation at any time. A beneficiary designation by a survivor shall not be subject to the automatic revocation of designation provisions of Section 21492.

(Added by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379.)

§ 21492. Revocation of Beneficiary Designation

The designation of a beneficiary under optional settlements 2 and 3, or if a benefit involving the life contingency of the beneficiary is provided under optional settlement 4, is irrevocable from the time of the first payment on account of any retirement allowance. Otherwise a designation of beneficiary under this system is revocable at the pleasure of the member who made it. A member's marriage, dissolution of marriage, annulment of his or her marriage, the birth of his or her child, or his or her adoption of a child shall constitute an automatic revocation of his or her previous revocable designation of beneficiary. A member's termination of employment and withdrawal of contributions shall constitute an automatic revocation of the previous revocable designation of beneficiary. Subsequent reemployment or reinstatement from retirement to employment covered by this system shall not reinstate the previous designation of beneficiary.

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

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186; repealed and added by Stats. 1970, Ch. 568; amended by Stats. 1988, Ch. 542 and Ch. 963, effective 8/23/88; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2005, Ch. 328.)

§ 21493. Order of Payments in Absence of Beneficiary Designation

(a) If a person had no beneficiary designation in effect on the date of death, any benefit payable shall be paid to the survivors of the person in the following order:

(1) The decedent's spouse.

(2) The decedent's natural or adopted children, including a natural child adopted by another who meets the following criteria:

(A) The natural parent and adopted child lived together at any time as parent and child or the natural parent was married to or was cohabiting with the other natural parent at the time the child was conceived and died before the birth of the child; and

(B) The child was adopted by the spouse of either of the natural parents or after the death of either of the natural parents or the child is a natural child adopted by another as that phrase is defined or construed by the Probate Code.

(3) The decedent's parents.

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(4) The decedent's brothers and sisters.

(b) If a deceased person had no effective beneficiary designation and there are no survivors in the groups specified in subdivision (a) who are entitled to the benefit under this section, the benefit shall be paid to the estate of the decedent, if the estate is either probated or subject to probate. Any benefit payable by this system may be paid either to the estate or to the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, or personal representative, or, in the case of an estate with a total value not exceeding the amount prescribed in paragraph (2) of subdivision (a) of Section 7660 of the Probate Code, to a public administrator upon receipt by this system of a written certification of authority for summary administration from that public administrator.

(c) If there are no survivors in the groups specified in subdivision (a) and the estate of the person described in subdivision (b) does not require probate, irrespective of whether probate is filed, the benefit shall be paid directly to the decedent's trust.

(d) If there are no survivors in the groups specified in subdivision (a) and the estate of the person described by subdivision (b) does not require probate, irrespective of whether probate is filed, and the decedent has not established a trust as described by subdivision (c), the benefit shall be paid directly to the surviving next of kin in the following order:

(1) Stepchildren.

(2) Grandchildren, including stepgrandchildren.

(3) Nieces and nephews.

(4) Great grandchildren.

(5) Cousins.

(e) For purposes of determining the application of subdivisions (b), (c), and (d), the amount of the benefit payable from this system shall not be included in calculating the worth of the estate.

(f) For purposes of this section, the term "stepchild" shall mean a person who had a regular parent-child relationship with the deceased person.

(Added by Stats. 1970, Ch. 568; amended by Stats. 1985, Ch. 255; by Stats. 1987, Ch. 1164; by Stats. 1988, Ch. 1046, effective 9/20/88; and by Stats. 1990, Ch. 313; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 951; by Stats. 1998, Ch. 678; and by Stats. 2011, Ch. 440.)

§ 21494. Payments When Estate Designated as Beneficiary

If, upon the death of a person there is a valid beneficiary designation on file with the board naming the decedent's estate as beneficiary, and the estate will be probated, benefits shall be paid to the estate or to the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, or personal representative, or in

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the case of an estate with a total value not exceeding the amount prescribed in paragraph (2) of subdivision (a) of Section 7660 of the Probate Code, to a public administrator upon receipt by this system of a written certification of authority for summary administration from that public administrator.

If the deceased person had a will, but the estate does not require probate, benefits may, in the judgment of the board, be paid to the beneficiary or beneficiaries, as specified in the will, notwithstanding any other provision of law.

If the deceased person left no will but had a trust, but the estate does not require probate, benefits may, in the judgment of the board, be paid to the successor trustee as named in the trust.

If the deceased person left no will or trust and the estate does not require probate, but the decedent designated his or her estate as the beneficiary, the benefit shall be paid to the next of kin pursuant to Section 21493.

(Added by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 951; and by Stats. 2011, Ch. 440.)

§ 21495. Class of Beneficiaries; Good Faith Determination of Entitlement

(a) Payment of any benefit shall not be made to those persons covered by Section 21493 if there are eligible recipients who are living members of a higher ranking class of beneficiaries as set forth in that section.

(b) Payments made pursuant to Section 21493, 21494, or 21506, upon the board's good faith determination of entitlement based on satisfactory evidence of entitlement, shall constitute a complete discharge and release of this system from liability for those payments.

(Added by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379.)

§ 21496. Evidence of Entitlement

The board's good faith determination of entitlement to payment pursuant to Section 21493, 21494, or 21506 shall be based upon such evidence as a death certificate, marriage certificate, or birth certificate for persons in a higher ranking group of statutory beneficiaries. However, where the evidence is not available, the board may accept a sworn statement by one claiming to be a beneficiary that there are no living individuals in any of the higher ranking groups of statutory beneficiaries, that the estate does not require probate, or that the relationship of the claimant to the decedent is as claimed.

(Added by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379.)

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§ 21497. Order of Claims; Limiting Number of Payments or Beneficiaries

If the total value of the benefit to be paid pursuant to Section 21493, 21494, or 21506 is less than an amount determined by the board, the benefit may be paid to the first member of the entitled class of beneficiaries who files a claim. If the total value of the benefit pursuant to any of these sections exceeds the amount established by the board but the number of qualifying beneficiaries under these sections is such that any individual benefit will be less than the amount established by the board, the board shall limit the number of beneficiaries so that no individual's benefit will be less than the amount established by the board. The board shall determine the recipients on the basis of the order in which claims are made.

(Added by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 951; and by Stats. 1999, Ch. 785.)

§ 21498. Reasonable Time to Make Claim

The board may fix such time as it deems reasonable during which claims for benefits pursuant to Sections 21493, 21494, and 21506 may be made. Anyone who is provided a claim form shall be given the same amount of time in which to file it as any other claimant. The board shall have no duty to identify or locate any member of any class of beneficiaries.

(Added by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379.)

§ 21499. Payment Time Limitation; Interest Due

(a) Notwithstanding Section 21498, when either an initial payment of a preretirement or postretirement death allowance or a preretirement or postretirement lump-sum benefit is payable in an amount of ten dollars ($10) or more, it shall be authorized to the Controller within 45 days of receipt by this system of all the necessary information, including the return of warrants issued or any overpayment outstanding after the date of the death of the annuitant.

(b) If any payment is not made within that time limitation, the payment shall also include interest at the greater of the interest crediting rate specified in Section 20178 or the net earnings rate (including capital gains and losses) in effect at the time the payment is made, for time following the expiration of that time limitation.

(Added by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 10, effective 5/14/03; and by Stats. 2014, Ch. 237.)

§ 21500. Failure to Make Claim; Transfers to Unclaimed Benefit Account

(a) Whenever a person entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located

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or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) Whenever the amount of a benefit payable by this system cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the accumulated contributions of the member on whose account the benefit is payable shall be administered in accordance with subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the retirement fund and held for the claimant without further accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds are not claimed within four years after the date of redeposit, they shall revert to and become a part of the reserve established pursuant to Section 20174. Transfer to this reserve shall be made as of the June 30th next following the expiration of the four-year period.

The board may at any time after transfer of proceeds to the described reserve upon receipt of proper information satisfactory to it, return the proceeds so held in reserve to the credit of the claimant, to be administered in the manner provided under this system.

(d) For lump-sum death benefits administered in accordance with subdivision (c), where this system has made a diligent effort to identify or locate the person entitled to payment and that person cannot be found, payment may be made to the next entitled beneficiary or beneficiaries, upon receipt of valid claims, if two years have passed since the date of death. Payment made by this system in good faith and in reliance on those claims, notwithstanding that it may fail to discover a person otherwise entitled to share in the benefits, shall constitute a complete discharge and release of this system for further liability for the benefits.

(Added by Stats. 1983, Ch. 773; repealed and added by Stats. 1995, Ch. 379.)

§ 21501. Custodial Parent Eligible to Receive Payments on Behalf of Surviving Children

Notwithstanding any other provision of law, a parent having custody of surviving children eligible to receive an allowance or a lump-sum payment payable under this part shall not be required to become the guardian of those children in order to be paid, on behalf of their children, the benefits prescribed for those children.

(Added by Stats. 1981, Ch. 609 and Ch. 963; amended by Stats. 1989, Ch. 192; renumbered by Stats. 1995, Ch. 379.)

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§ 21502. Payee for Benefits to Minor Beneficiary; Guardianship or Court Order

If any person entitled to a benefit from this system is a minor who has no guardian of the estate, the board, if within the limits as to amount of payment and value of the minor's estate specified as of the time of payment under the provisions of the Probate Code authorizing payment to a parent of a minor entitled to the minor's custody, may pay it to the person entitled to custody of the minor to hold for the minor, if the person files with the board a verified statement that the total estate of the minor does not exceed the value so specified or, if in excess of those limits, may pay it to the probate court, and the court may order that the money be deposited in a bank or banks, or a trust company or companies, or invested in an account or accounts in an insured savings and loan association or associations, subject to withdrawal only on order of the probate court, or it may require a guardian of the estate to be appointed and the money paid to the guardian, or prescribe other conditions as the court in its discretion deems to be in the best interest of the minor. Payment so made is a full discharge of the board and this system. The person shall account to the minor for the money when the minor reaches the age of majority.

The term "account in an insured savings and loan association" used in this section has the same meaning as in Section 23 of the Probate Code.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1957, Ch. 936; by Stats. 1959, Ch. 730; by Stats. 1967, Ch. 1454; by Stats. 1968, Ch. 586; by Stats. 1979, Ch. 730, effective 1/1/80, operative 1/1/81; and by Stats. 1987, Ch. 923, operative 7/1/88; renumbered by Stats. 1995, Ch. 379.)

§ 21503. Selection of Optional Settlement Upon Death of Member Who Applied for Retirement

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

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

(b) The document containing the application for retirement received by this system did not provide for a temporary election of the optional settlement 2.

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

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

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

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A retirement allowance provided in accordance with this section shall be calculated as if the member had elected Section 21459.

(Added by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; amended by Stats. 1992, Ch. 524; renumbered by Stats. 1995, Ch. 379.)

§ 21504. Member's Death on Retirement Effective Date Deemed Death After Retirement

If a member dies on or after the effective date of retirement and prior to the mailing of a retirement allowance warrant and if the member has elected an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary, or the member elected the unmodified allowance or optional settlement 1 and if a partially continued retirement allowance under Sections 21624 through 21631, is payable, the death shall be considered to be death after retirement and the applicable benefits shall be payable.

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

(Added by Stats. 1978, Ch. 799; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1992, Ch. 524; renumbered by Stats. 1995, Ch. 379.)

§ 21505. Member's Death Within 30 Days of Mandatory Retirement Deemed Death Before Retirement

If a member who has been retired for service because he or she has attained the mandatory age of retirement applicable to members of his or her category dies within 30 days after the date upon which his or her retirement was mandatory, and without having elected an optional settlement 2 or 3 or an optional settlement if involving payment of an allowance throughout the life of a beneficiary under Article 6 (commencing with Section 21450) of Chapter 13, and if no part of the allowance of the member is automatically continued by this part after his or her death, his or her death shall be considered as that of a member before retirement, and the basic death benefit shall be payable, or, if the circumstances are such that a special death benefit would be payable if the death had occurred prior to retirement, the special death benefit shall be payable.

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(Added by Stats. 1955, Ch. 1705, operative 10/1/55; renumbered by Stats. 1995, Ch. 379.)

§ 21506. Order of Payment—Amounts Unpaid at Death

Any monthly allowance payable to a person, that had accrued and remained unpaid at the time of his or her death, or any uncashed warrant issued prior to the date of death of the person that has been returned to this system, or any balance of prepaid complementary health premiums received pursuant to Section 21691 or prepaid complementary annuitant health plan premiums received pursuant to Section 22802, shall be paid in the following order:

(a) In the event of the death of a retired person, to one of the following:

(1) The beneficiary entitled to payment in accordance with an optional settlement chosen by the member.

(2) The survivor entitled to payment of the survivor continuance benefit provided under Section 21624.

(3) The beneficiary entitled to receive the lump-sum death benefit provided upon death of a retired person if the person had not chosen an optional settlement and there was no survivor who was entitled to receive the survivor continuance benefit.

(b) In the event of the death of a person receiving a survivor benefit, that benefit shall be paid to the beneficiary designated by the survivor of a member under Section 21491.

(c) If there is no beneficiary entitled to receive payment under either subdivision (a) or (b), the benefit shall be paid to either the estate of the deceased person or the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, personal representative, or, in the case of an estate with a total value not exceeding the amount prescribed in paragraph (2) of subdivision (a) of Section 7660 of the Probate Code, to a public administrator upon receipt by this system of a written certification of authority for summary administration from that public administrator. If the estate does not require probate and the deceased person had a trust, benefits may, in the judgment of the board, be paid to the successor trustee as named in the trust.

(d) If there is no beneficiary entitled to receive payment of benefits under subdivision (a), (b), or (c), the benefits shall be paid to the surviving next of kin of the person pursuant to the order of distribution specified in Section 21493.

(Added by Stats. 1961, Ch. 161, operative 10/1/61; amended by Stats. 1988, Ch. 1046, effective 9/20/88; and by Stats. 1992, Ch. 1154, effective 9/29/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 951; by Stats. 2004, Ch. 69, effective 6/24/04; and by Stats. 2011, Ch. 440.)

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§ 21507. Payee for Lump-Sum Benefits Payable to Deceased Beneficiary

Any lump-sum benefit, or any uncashed lump-sum death benefit warrant, payable by this system to a beneficiary shall be paid to the estate of the beneficiary if he or she dies prior to payment of the benefit. The benefit may be paid to a representative of the deceased beneficiary's estate, upon demonstration by court documents that the person is authorized to act in that capacity, or, in the case of an estate with a total value not exceeding the amount prescribed in paragraph (2) of subdivision (a) of Section 7660 of the Probate Code, to a public administrator upon receipt by this system of a written certification of authority for summary administration from that public administrator. If the estate does not require probate and the deceased beneficiary was the trustor of a trust, benefits may, in the judgment of the board, be paid to the trustee as named in the trust. If the estate is not probated, and the deceased beneficiary was not the trustor of a trust, benefits shall be paid to the deceased beneficiary's surviving next of kin, in the order specified in Section 21493.

(Added by Stats. 1990, Ch. 313; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 785; and by Stats. 2011, Ch. 440.)

§ 21508. Discretionary Payment of Funeral Expenses

If any benefit is payable by this system to the estate of a deceased person, and the estate would not be probated if no amount were due from this system, but there is no surviving person in any of the groups specified in Section 21493 or 21494, or if no beneficiary can be found by the board, the board may in its discretion pay expenses of the disposition of the body as evidenced by itemized statements or documents the board may require. Payment may not exceed the amount payable under this system to the estate or beneficiary. Payment so made is a full discharge of the board and system for the amount so paid.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1955, Ch. 1705; by Stats. 1983, Ch. 773; and by Stats. 1988, Ch. 1046, effective 9/20/88; renumbered by Stats. 1995, Ch. 379.)

§ 21509. Applicability of Probate Code

The provisions of Part 5 (commencing with Section 220) of Division 2 of the Probate Code, when applicable, govern the distribution of money payable under this system, including but not limited to retirement allowance accrued but not received prior to death and refund of member contributions. In applying Part 5 (commencing with Section 220) of Division 2 of the Probate Code with respect to benefits payable to a beneficiary, membership in this system shall be considered as having the same status as an insurance policy issued after December 31, 1984.

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(Added by Stats. 1949, Ch. 1215; amended by Stats. 1983, Ch. 842, operative 1/1/85; renumbered by Stats. 1995, Ch. 379.)

§ 21510. Refund of Payments After Death of Recipient

Any payment of benefits by warrant issued after the date of death of the benefit recipient shall be refunded to the retirement system.

(Added by Stats. 2004, Ch. 506.)

ARTICLE 2. PRERETIREMENT DEATH BENEFITS

§ 21530. Circumstances for Payment of Basic or Special Death Benefit

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

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

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

(3) On or after the effective date of retirement and before the mailing of a retirement allowance warrant and either within four months of discontinuance of state service or while physically or mentally incapacitated for the performance of duty if the incapacity has been continuous from discontinuance of state service, and providing all of the following conditions exist:

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

(B) The member has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 6 (commencing with Section 21450) of Chapter 13.

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

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

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(1) Upon the death of a member before the effective date of his or her retirement or, with respect to (A) any member whose retirement was not compulsory under Article 5 (commencing with Section 21130) of Chapter 12, and (B) any member who has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 6 (commencing with Section 21450) of Chapter 13, on or after that effective date and before the mailing of the first retirement allowance warrant.

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

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140; and by Stats. 1951, Ch. 612; repealed and added by Stats. 1951, Ch. 1680; amended by Stats. 1955, Ch. 1705; by Stats. 1957, Ch. 2399; by Stats. 1959, Ch. 776; by Stats. 1965, Ch. 977 and Ch. 1670; by Stats. 1967, Ch. 1699; by Stats. 1978, Ch. 799; by Stats. 1980, Ch. 1102; by Stats. 1983, Ch. 1258, effective 9/30/83, operative 1/1/84; by Stats. 1989, Ch. 1143; and by Stats. 1991, Ch. 544; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21531. Benefits Paid to Designated Beneficiary

The basic death benefit and the limited death benefit shall be paid as provided in this article to the beneficiary designated by the member under Section 21490 or 21492.

(Added by Stats. 1951, Ch. 612; amended by Stats. 1970, Ch. 568; renumbered by Stats. 1995, Ch. 379.)

§ 21532. Basic Death Benefit Amount

The basic death benefit is payable in all cases where the retirement system is liable under Section 21530 for either the basic or a special death benefit and the special death benefit is not payable.

The basic death benefit shall consist of:

(a) The accumulated contributions of the member.

(b) If the member is not an insured member, or is an insured member eligible for service retirement or the member is subject to benefits pursuant to Section 21547, an amount, provided from contributions by the state, or a contracting agency, equal to one-twelfth of the annual compensation earnable by the deceased during the 12 months immediately preceding his or her death, or the compensation earnable by the member at the time of becoming eligible for benefits pursuant to Section 21160 if higher, multiplied by the number of completed years of current service credited to the member, but not to exceed one-half of the annual compensation. If the member is an insured member who is ineligible for service

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retirement and is also credited with service as a local member only that service shall be used in computing the amount under this subdivision and that amount shall not be a part of the basic death benefit payable with respect to the insured member.

(c) If the member is a state member, other than a school member, who dies after becoming eligible for retirement with more than five but less than six years credited service, an amount equal to 50 percent of the annual compensation earnable by the deceased member during the 12 months immediately preceding his or her death.

The basic death benefit for a member who dies under the circumstances described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530 shall not exceed an amount that, when added to the death benefit paid for the member under the other system, equals the maximum death benefit payable under that system, if the death is not the result of injury or disease arising out of and in the course of his or her employment under that system. However, the benefit shall be at least equal to his or her accumulated contributions. The basic death benefit for the member shall be the amount of his or her accumulated contributions if death is the result of disease or injury arising out of and in the course of employment under the other system.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1951, Ch. 612; by Stats. 1957, Ch. 2399; by Stats. 1959, Ch. 775; by Stats. 1965, Ch. 977; by Stats. 1974, Ch. 374, effective 6/28/74, operative 7/1/74; by Stats. 1977, Ch. 394; and by Stats. 1993, Ch. 513; renumbered by Stats. 1995, Ch. 379.)

§ 21533. Death While on Compensated Leave—Academic Employee of CSU

Notwithstanding Section 20636, if a member who is an academic employee of the California State University dies while on a leave with pay, or within 12 months following a leave with pay, during which the member received compensation in an amount less than the full compensation earnable by him or her when not on leave with pay, the benefit payable under subdivision (b) of Section 21532 shall be based on the full compensation earnable by the member when not on leave with pay.

(Added by Stats. 1974, Ch. 1337; amended by Stats. 1983, Ch. 143; renumbered by Stats. 1995, Ch. 379.)

§ 21533.5. Federal HEART Act

(a) To the extent required by Section 401(a) of Title 26 of the United States Code, if a member dies while performing qualified military services, the survivors of the member shall be entitled to any additional benefits, as determined under Section 401 (a)(37) of Title 26 of the United States Code, that would have been provided under the system had the member resumed his or her prior employment with an employer that maintains the system and then terminated employment on

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account of death. Death of a member while performing qualified military service shall not be treated as a service-connected death or disability. Service for vesting shall be credited to a member affected by this section for the period of his or her qualified military service.

(b) "Additional benefits" under this section shall not include benefit accruals relating to the period of qualified military service.

(Added by Stats. 2011, Ch. 440.)

§ 21534. System Liability—Death During 1973 While on Compensated Leave—Academic Employee of CSU

Liability imposed on this system with respect to the death of a member who is an academic employee of the California State University while on, or within 12 months following, a leave with pay during which the member received compensation in an amount less than the full compensation earnable by him or her when not on leave with pay shall extend to the death of the members occurring on or after January 1, 1973, and to any benefit for which there would have been liability with respect to the death had Section 21533 been effective on that date.

(Added by Stats. 1974, Ch. 1337; amended by Stats. 1983, Ch. 143; renumbered by Stats. 1995, Ch. 379.)

§ 21535. Determination of Interest on Member's Accumulated Contributions Payable as Basic Death Benefit

Notwithstanding Section 20178, for member deaths occurring on or after January 1, 1994, if the actuarial interest rate exceeds 6 percent, the accumulated contributions of a member payable pursuant to subdivision (a) of Section 21532 shall be increased by a factor determined by the board that is based on the difference between the current actuarial interest rate defined in Section 20014 and the 6 percent interest crediting rate on member contributions. If the actuarial interest rate is less than 6 percent, no increase may be provided under this section.

(Added by Stats. 1993, Ch. 1168; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21536. Local System Service Included in Basic Death Benefit—Specified Local Members

In the determination of the portion of the basic death benefit provided in subdivision (b) of Section 21532, for local members who were members of a local retirement system at the time of that system's discontinuance wholly or in part as provided in Section 20483, service included in the calculation of the completed

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years of service shall not be limited to service under this system, but instead service rendered as members of the local system, shall also be included.

This section shall not apply to employees of any contracting agency nor to any such agency unless and until the contracting agency elects to be subject to its provisions by amendment to its contract with the board, made as provided in Section 20474, or unless the agency's contract with the board includes at its effective date, a provision making the agency and its employees subject to the provisions of this section.

(Added by Stats. 1957, Ch. 259; amended by Stats. 1981, Ch. 548; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21537. Special Death Benefit Payable—Industrial Causation—Specified State Members or Local Safety Member

(a) The special death benefit is payable if the deceased was a patrol, state peace officer/firefighter, state safety, state industrial, or local safety member, if his or her death was industrial and if there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of a member was industrial.

(b) The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section does not apply to state safety members described in Section 20401.5 or local safety members described in Section 20423.6.

(d) (1) For purposes of this section, the special death benefit is payable as of the effective date of the industrial disability retirement of the member if the death of the member occurred from a single event injury arising out of and in the course of his or her official duties which, based on competent medical opinion, rendered the member into a persistent vegetative state devoid of cognitive function at the time of injury until the time of death.

(2) This subdivision applies only to a member who retired and then died on or after July 3, 2006.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1947, Ch. 1140; by Stats. 1965, Ch. 1513; by Stats. 1972, Ch. 1098; by Stats. 1973, Ch. 479; by Stats. 1974, Ch. 666 and Ch. 1439; by Stats. 1975, Ch. 234; by Stats. 1979, Ch. 786; and by Stats. 1984, Ch. 280, effective 7/3/84; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 1152; and by Stats. 2008, Ch.74.)

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§ 21537.5. Special Death Benefit—Industrial Causation—State Miscellaneous Members—Unit 12

(a) The special death benefit is payable if the deceased was a state miscellaneous member in State Bargaining Unit 12 employed by the Department of Transportation, if his or her death occurred as a direct result of injury arising out of and in the course of his or her official duties with the department working on the California highway system performing highway maintenance, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of that injury.

(b) The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section shall not become operative unless and until a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this section applicable to those members described in subdivision (a).

(Added by Stats. 2002, Ch. 1153; amended by Stats. 2006, Ch. 210, effective 9/6/06.)

§ 21538. Special Death Benefit Payable—Related to Employment in Correctional Facility—Specified Appointed State Members

The special death benefit is also payable if the deceased was a state member appointed by the Governor, the Director of Corrections, or the Board of Prison Terms, if his or her death occurred as a result of injury or disease arising out of and in the course of his or her official duties within a state prison or facility of the Department of Corrections, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of the injury or disease.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

(Added by Stats. 1959, Ch. 1535; amended by Stats. 1973, Ch. 479; by Stats. 1974, Ch. 666; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379.)

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§ 21539. Special Death Benefit—Death Prior to March 7, 1973—Specified Members

The special death benefit payable with respect to a member who at death prior to March 7, 1973, was a warden, forestry, harbor police, or law enforcement member shall be continued in accordance with the provisions of this part as they read and applied to that benefit on the day preceding that date.

(Added by Stats. 1947, Ch. 1133; repealed and added by Stats. 1972, Ch. 1098, operative 4/1/73; amended by Stats. 1980, Ch. 1102; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379.)

§ 21540. Special Death Benefit—Death Related to Misconduct of Inmate or Parolee—State Member

The special death benefit is also payable if the deceased was the Secretary of the Youth and Adult Corrections Agency, or was a state member appointed by the Secretary of the Youth and Adult Corrections Agency, the Department of the Youth Authority, the Superintendent of the California Institution for Women, or the Women's Board of Terms and Paroles, the Board of Corrections, or was a member of the Board of Corrections or the Department of the Youth Authority not already classified as a prison member, provided that his or her death occurred as a result of misconduct of an inmate of a state prison, correctional school, or facility of the Department of Corrections or the Department of the Youth Authority, or a parolee therefrom.

The special death benefit provided by this section is not payable unless the death of the member arose out of and was in the course of his or her official duties and unless there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases, determine whether the member's death arose out of and in the course of his or her official duties.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

(Added by Stats. 1963, Ch. 1440; amended by Stats. 1965, Ch. 238; by Stats. 1973, Ch. 479; by Stats. 1974, Ch. 666; by Stats. 1980, Ch. 1102; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379.)

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§ 21540.5. Special Death Benefit—Death by Violent Act Related to Official Duties—Miscellaneous Member

(a) The special death benefit is also payable if the deceased was a state, school, or local miscellaneous member, a local safety member described in Section 20423.6, or a state safety member described in Section 20401.5, if the death of the member was a direct consequence of a violent act perpetrated on his or her person that arose out of and was in the course of his or her official duties and there is a survivor who qualifies under paragraph (2) of subdivision (a) of Section 21541. The Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases determine whether the member's death was a direct consequence of a violent act perpetrated on his or her person that arose out of and in the course of his or her official duties.

(b) A natural parent of surviving children eligible to receive an allowance payable under this section is not required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

(c) The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

(d) This section does not apply to a contracting agency nor its employees unless and until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of a new contract, by express provision of the contract.

(Added by Stats. 1994, Ch. 610; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1997, Ch. 386; by Stats. 2002, Ch. 1152; and by Stats. 2005, Ch. 328.)

§ 21541. Special Death Benefit Amount

(a) The special death benefit consists of the following:

(1) An amount equal to and derived from the same source as the basic death benefit exclusive of the contributions from which the annuity provided under paragraph (4) is paid.

(2) An amount sufficient, when added to the amount provided under paragraph (1), to provide, when applied according to tables adopted by the board, a monthly death allowance equal to one-half of his or her final compensation in the membership category applicable to him or her at the time of the injury, or the onset of the disease, causing death, as adjusted pursuant to subdivision (b), which amount shall be payable to the surviving spouse to whom he or she was married either continuously for at least one year prior to death, or prior to sustaining the injury or disease resulting in death, as long as the surviving spouse lives; or, if there is no surviving spouse or if the spouse dies before all children of the

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deceased member attain the age of 22 years, to his or her children under the age of 22 years collectively until every child shall have died, married, or attained the age of 22 years. However, no child shall receive any part of the allowance after marrying or attaining the age of 22 years. The increases described in this section shall only apply to spouses of deceased members who would have been less than 50 years of age, if still living on January 1, 2001.

(3) During the lifetime of the surviving spouse, an additional percentage of the death benefit allowed by this section, exclusive of the annuity under paragraph (4), shall be paid to the spouse of a member who is killed in the performance of his or her duty or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his or her duty, for each of his or her children during the lifetime of the child, or until the child marries or reaches the age of 22 years, as follows: for one child, 25 percent; for two children, 40 percent; and for three or more children, 50 percent.

(4) An annuity that is the actuarial equivalent, assuming monthly payments for life to the surviving spouse, of the deceased's accumulated additional contributions at the date of his or her death, plus his or her accumulated contributions at that date based on compensation earned in any membership category other than the category applicable to him or her at the time of the injury or the onset of the disease causing death.

(b) For purposes of this section only, the deceased member's final compensation shall be deemed to increase, and the death benefit under paragraph (2) of subdivision (a) shall be increased correspondingly, at any time and to the extent the compensation is increased for then-active members employed in the job classification and membership category that was applicable to the deceased member at the time of the injury, or the onset of the disease, causing death. The deceased member's final compensation shall be deemed to be subject to further increases hereunder only until the earlier of (1) the death of the surviving spouse or (2) the date that the deceased member would have attained the age of 50 years.

(c) Monthly allowances shall be adjusted annually for time commencing on the first day of September and effective with the monthly allowance regularly payable on the first day of the October beginning with October 1, 2001. The employer of the deceased member shall be responsible for reporting and certifying top range salary rates by the first day of July, beginning with July 1, 2001.

(d) If the surviving spouse does not have custody of the member's children, the additional amount payable pursuant to this section shall be payable to the person having custody of the children for each child during the lifetime of the child, or until the child marries or reaches the age of 22 years.

(e) The computation for time prior to entering the membership category applicable to the deceased at the time of the injury, or the onset of the disease, causing death shall be based on the compensation earnable by him or her in the position first held by him or her in that category.

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(f) For purposes of this section:

(1) "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.

(2) "Spouse" means a wife or husband.

(g) This section shall apply to all contracting agencies and to the employees of all contracting agencies.

(h) For purposes of Section 21313, the base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of the adjustment.

(i) The amount of the death benefit payable pursuant to this section on and after January 1, 2001, with respect to any member who died prior to that date, shall be recalculated on and after that date pursuant to subdivision (b).

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; by Stats. 1953, Ch. 1186; by Stats. 1955, Ch. 1766; by Stats. 1961, Ch. 2197; by Stats. 1965, Ch. 977, Ch. 1772, and Ch. 1773; by Stats. 1967, Ch. 1699; by Stats. 1974, Ch. 92; by Stats. 1976, Ch. 1436; by Stats. 1980, Ch. 1102; by Stats. 1981, Ch. 963; by Stats. 1982, Ch. 432; and by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1999, Ch. 800; Stats. 2000, Ch. 1031; and by Stats. 2003, Ch. 840.)

§ 21541.5. Restoration of Adoptees' Benefits

Any child whose benefits under Section 21541 were terminated upon his or her adoption, pursuant to that section as it read prior to January 1, 2001, shall have those benefits restored as follows:

(a) The child shall receive a lump-sum payment in the amount that would have paid, if he or she had not been adopted, from the date of adoption to the earlier of (1) the date his or her eligibility for benefits under Section 21541 would have otherwise terminated had he or she not been adopted or (2) January 1, 2001.

(b) If on January 1, 2001, the child is eligible for benefits under Section 21541, he or she shall receive benefits from and after that date pursuant to Section 21541.

(Added by Stats. 2000, Ch. 1031.)

§ 21542. Election to Receive Basic Death Benefit in Lieu of Special Death Benefit

The special death benefit shall begin to accrue on the day next following the date of the member's death, and shall be paid in monthly installments to the surviving spouse and children as prescribed in Section 21541. The surviving spouse or the guardian of the minor child or children entitled to the special death benefit may elect, before the first payment, to receive the basic death benefit in

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lieu of the special death benefit. The election precludes a claim to benefits under Section 4707 of the Labor Code as the special death benefit is deemed payable by this system and is irrevocable.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1953, Ch. 1186; and by Stats. 1984, Ch. 333, effective 7/9/84; renumbered by Stats. 1995, Ch. 379.)

§ 21543. Lump Sum Payable if Eligibility for Special Death Benefit Ceases

If payment of the special death benefit is stopped because of death of the surviving spouse or death, marriage, or attainment of the age of 22 years by a child before the sum of the monthly payment made, exclusive of the annuity derived from the accumulated additional contribution of the deceased, equals the basic death benefit, a lump sum equal to the difference shall be paid to the surviving children of the deceased member, share and share alike, or if there are no children, to the estate of the person last entitled to the allowance. In that event, the accumulated additional contributions of the deceased, as they were at his or her death, less the annuity paid as derived from those contributions, and plus interest credited to the accumulated additional contributions, shall be paid in the manner provided in this article for the payments of amounts due in the absence of a designated beneficiary.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1949, Ch. 298; by Stats. 1976, Ch. 1436; by Stats. 1977, Ch. 394; and by Stats. 1990, Ch. 313; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2004, Ch. 231.)

§ 21544. Temporary Payment of Special Death Benefit Pending Determination of Industrial Causation

Upon notice of a death as a result of which the special death benefit may be payable, and when there is a survivor who would qualify under subdivision (b) of Section 21541, the board, or in disputed cases, the Workers' Compensation Appeals Board, shall determine whether the death was industrial, and pending final determination of the issue, the board shall temporarily pay special death benefits. The temporary payments shall be deducted from any other death benefits otherwise payable if the death is determined not to be industrial.

(Added by Stats. 1945, Ch. 123; amended by Stats. 1945, Ch. 1224; by Stats. 1947, Ch. 1140; by Stats. 1955, Ch. 1412; and by Stats. 1965, Ch. 1513; repealed and added by Stats. 1977, Ch. 468; renumbered by Stats. 1995, Ch. 379.)

§ 21546. 1957 Survivor Allowance

(a) Upon the death of a member who has attained the minimum age for voluntary service retirement applicable to the member in his or her last employment preceding death, and who is eligible to retire and in circumstances in which the basic death benefit is payable other than solely that of membership in a

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county retirement system, or a retirement system maintained by the university, a monthly allowance shall be payable as follows:

(1) To the member's surviving spouse as long as the spouse lives.

(2) To the children under the age of 18 years collectively if there is no surviving spouse or if the surviving spouse dies before all children of the deceased member attain the age of 18 years, until every child dies or attains the age of 18 years. No child shall receive any allowance after marrying or attaining the age of 18 years.

(b) The monthly allowance under this section shall be equal to one-half of, and derived from the same source as, the unmodified retirement allowance the member would have been entitled to receive if he or she had retired for service on the date of death. If, however, the member made a specific beneficiary designation under Section 21490, the monthly allowance shall be equal to one-half of that portion of the member's unmodified retirement allowance that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.

(c) If a member does not have a surviving spouse nor any children under the age of 18 years at the time of death, no allowance shall be payable under this section.

(d) No allowance shall be payable under this section if a special death benefit is payable.

(e) (1) The allowance provided by this section shall be paid in lieu of the basic death benefit but a surviving spouse qualifying for the allowance may elect, before the first payment on account of it, to receive the basic death benefit in lieu of the allowance.

(2) The allowance provided by this section shall be paid in lieu of the basic death benefit but the guardian of the minor child or children qualifying for the allowance may elect, before the first payment on account of it, to receive the basic death benefit in lieu of the allowance. If an election of the basic death benefit is made, the basic death benefit shall be paid to all the member's surviving children, regardless of age or marital status, in equal shares.

(f) If the total of the payments made pursuant to this section are less than the basic death benefit that was otherwise payable on account of the member's death, the amount of the basic death benefit less any payments made pursuant to this section shall be paid in a lump sum to the surviving children of the member, share and share alike, or if there are no children, to the estate of the person last entitled to the allowance.

(g) The board shall compute the amount by which benefits paid pursuant to this section exceed the benefits that would otherwise be payable and shall charge any excess against the contributions of the state so that there shall be no increase in contributions of members by reason of benefits paid pursuant to this section.

(h) As used in this section, "a surviving spouse" means a spouse who was either married to the member for at least one year prior to the member's death, or was married to the member prior to the occurrence of the injury or the onset of the

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illness that resulted in death, and "child" includes a posthumously born child of the member.

(i) On and after April 1, 1972, this section shall apply to all contracting agencies and to the employees of those agencies with respect to deaths occurring after April 1, 1972, whether or not the agencies have previously elected to be subject to this section.

(Added by Stats. 1957, Ch. 2281; amended by Stats. 1959, Ch. 778 and Ch. 1093; by Stats. 1961, Ch. 592; by Stats. 1965, Ch. 856 and Ch. 1255; by Stats. 1970, Ch. 346; by Stats. 1971, Ch. 316; by Stats. 1974, Ch. 92; by Stats. 1975, Ch. 234; by Stats. 1976, Ch. 1436; by Stats. 1984, Ch. 674, effective 8/18/84; by Stats. 1990, Ch. 313; and by Stats. 1994, Ch. 408; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 800; and by Stats. 2000, Ch. 1002.)

§ 21547. Alternate Death Benefit—Death of State Member with 20 Years of State Service

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

(1) To the member's surviving spouse, an amount equal to the amount the member would have received if the member had retired for service at minimum retirement age on the date of death and had elected optional settlement 2 and Section 21459.

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

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

(b) This section shall only apply to members employed in state bargaining units for which a memorandum of understanding has been agreed to by the state

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employer and the recognized employee organization to become subject to this section, members who are excluded from the definition of state employees in subdivision (c) of Section 3513, and members employed by the executive branch of government who are not members of the civil service.

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

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

(Added by Stats. 1992, Ch. 103, effective 6/30/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 457, effective 9/21/99; by Stats. 2000, Ch. 1002; and by Stats. 2004, Ch. 214, effective 8/11/04.)

§ 21547.5. Adjustment of Alternate Death Benefit Allowance that Began Prior to January 1, 2000

For any survivor receiving a monthly allowance pursuant to Section 21547 prior to January 1, 2000, that allowance shall be adjusted as of January 1, 2000, to equal the amount that the survivor would have been entitled to receive if the member's death had occurred on or after January 1, 2000. The adjusted allowance shall be payable only on and after January 1, 2000.

(Added by Stats. 1999, Ch. 457, effective 9/21/99.)

§ 21547.7. Alternate Death Benefit—Death of Local Firefighter Member with 20 Years of Service

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

(1) To the member's surviving spouse, an amount equal to the amount the member would have received if he or she had retired for service at the minimum retirement age on the date of death and had elected optional settlement 2 and Section 21459. The retirement allowance shall be calculated using all service earned by the member in this system.

(2) If the member made a specific beneficiary designation under Section 21490, the monthly allowance shall be based only on that portion of the amount the member would have received described in paragraph (1) that would have been

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derived from the nonmember spouse's community property interest in the member's contributions and service credit.

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

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

(b) (1) Upon the death of a local firefighter member while in the employ of an agency subject to this section on or after January 1, 2001, who is credited with 20 years or more of state service and who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, the surviving spouse may elect to receive a monthly allowance that is equal to the amount that member would have received if the member had been retired from service on the date of death and had elected optional settlement 2 and Section 21459 in lieu of the basic death benefit. The retirement allowance shall be calculated using all service earned by the member in this system.

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

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

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

(c) This section shall not apply to any contracting agency, nor to the employees of any contracting agency, unless and until the agency elects to be subject to this

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section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required.

(Added by Stats. 2000, Ch. 855; amended by Stats. 2001, Ch. 159 and Ch. 793.)

§ 21548. Pre-Retirement Optional Settlement 2 Death Benefit

(a) The surviving spouse of a member who has attained the minimum age for voluntary service retirement applicable to the member in his or her last employment preceding death, and who is eligible to receive an allowance pursuant to Section 21546, shall instead receive an allowance that is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2 and Section 21459.

(b) The surviving spouse of a member who has attained the minimum age for voluntary service retirement applicable to the member in his or her last employment preceding death, and who is eligible to receive a special death benefit in lieu of an allowance under Section 21546, may elect to instead receive an allowance that is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2 and Section 21459.

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

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

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

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

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

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

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(Added by Stats. 1976, Ch. 341, effective 7/7/76; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1981, Ch. 963; by Stats. 1982, Ch. 863; by Stats. 1984, Ch. 333, effective 7/10/84; and Ch. 674, effective 8/18/84; by Stats. 1990, Ch. 29, effective 3/20/90, operative 1/1/90; and by Stats. 1994, Ch. 1269; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 800; and by Stats. 2000, Ch. 1002.)

§ 21549. Repealed

(Repealed by Stats. 2000, Ch. 1002.)

§ 21550. Repealed

(Repealed by Stats. 1999, Ch. 800.)

§ 21551. Benefits Payable to Surviving Spouse; Restoration; Continuation Upon Remarriage

Notwithstanding any other provision of this part, the benefits payable to a surviving spouse pursuant to Sections 21541, 21546, 21547, 21548, and Article 3 (commencing with Section 21570), do not cease upon remarriage if the remarriage occurs on or after September 19, 1989, for surviving spouses of deceased state members, January 1, 1991, for surviving spouses of deceased school members, upon the date a contracting agency elected to be subject to this section for deceased local members, or January 1, 2000, for spouses of deceased local members if the contracting agency has not elected to be subject to this section. Any surviving spouse who elected the reduction specified in Section 21500 as it read prior to January 1, 2000, shall be restored to the lifetime allowance to which he or she was originally entitled effective September 19, 1989, for state members, January 1, 1991, for school members, upon the date a contracting agency elected to be subject to this section, or January 1, 2000, if the contracting agency has not elected to be subject to this section.

Pursuant to Section 22822, the surviving spouse who remarries may not enroll his or her new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

Any surviving spouse whose allowance has been discontinued as a result of remarriage prior to the effective date of this section shall have that allowance restored and resumed on January 1, 2000, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later. The amount of the benefits due shall be calculated as though the allowance had never been reduced or discontinued because of remarriage, and is not payable for the period between the date of discontinuance because of remarriage and January 1, 2000. The board has no duty to identify,

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locate, or notify a spouse who previously had his or her allowance discontinued because of remarriage.

(Added by Stats. 1989, Ch. 497, effective 9/19/89; amended by Stats. 1990, Ch. 862; and by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1996, Ch. 1120; by Stats. 1999, Ch. 800; and by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 21552. Benefits Payable to Surviving Spouses of Specified Local Safety Members—Effect of Remarriage

Notwithstanding any other provision of this part, on and after the effective date of this section, the remarriage of any surviving spouse of any deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who died in the line of duty, shall not result in the reduction or cessation of any monthly allowance the spouse was receiving pursuant to Section 21541 and Article 3 (commencing with Section 21570).

(Added by Stats. 1996, Ch. 1120.)

§ 21553. Restoration of Allowance After Remarriage—Surviving Spouses of Specified Local Safety Members

(a) The monthly allowance pursuant to Section 21541 and Article 3 (commencing with Section 21570), paid to the surviving spouse of any deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who died in the line of duty, shall be restored if that allowance has been reduced or discontinued upon the spouse's remarriage. The allowance shall be resumed on the effective date of this section, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later.

(b) The amount of the benefits due shall be calculated as though the allowance had never been reduced or discontinued because of remarriage, and shall not be payable for the period between the date of reduction or discontinuance and the effective date of resumption.

(c) The board has no duty to identify, locate, or notify a spouse who previously had his or her allowance reduced or discontinued because of remarriage.

(d) Any surviving spouse shall be entitled to restoration of terminated or diminished benefits upon application to the system if he or she previously qualified for special death benefits because his or her spouse died in the line of duty.

(Added by Stats. 1996, Ch. 1120.)

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§ 21554. Restoration of Allowance After Remarriage—Surviving Spouses of Specified State Members

(a) The monthly allowance pursuant to Section 21541 and Article 3 (commencing with Section 21570), paid to the surviving spouse of any deceased patrol, state safety, or state peace officer/firefighter member, who died in the line of duty shall be restored if that allowance has been discontinued upon the spouse's remarriage. The allowance shall be resumed on the effective date of this section, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later.

(b) The amount of the benefits due shall be calculated as though the allowance had never been discontinued because of remarriage, and shall not be payable for the period between the date of discontinuance and the effective date of resumption.

(c) The board has no duty to identify, locate, or notify a spouse who previously had his or her allowance discontinued because of a remarriage.

(d) Any surviving spouse shall be entitled to restoration of terminated benefits upon application to the system if he or she previously qualified for special death benefits because his or her spouse died in the line of duty.

(Added by Stats. 1998, Ch. 719.)

ARTICLE 3. PRERETIREMENT 1959 SURVIVOR ALLOWANCE

§ 21570. Limitation

No person shall receive more than one allowance under this article and that allowance shall be the largest of the monthly allowances to which he or she would otherwise be entitled.

(Added by Stats. 1961, Ch. 162, operative 10/1/96; amended by Stats. 1980, Ch. 316, effective 7/3/80; renumbered by Stats. 1995, Ch. 379.)

§ 21571. 1959 Survivor Allowance—First Level

(a) If the death benefit provided by Section 21532 is payable on account of a member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph 1 of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after attainment of that age.

(2) The guardian or conservator of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

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(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid three hundred sixty dollars ($360) if there is one child or four hundred thirty dollars ($430) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid one hundred eighty dollars ($180) per month.

(B) If there are two children, the children shall be paid three hundred sixty dollars ($360) per month divided equally between them.

(C) If there are three or more children, the children shall be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be seventy dollars ($70) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach age 22, each of the member's dependent parents who has

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attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) The amendments to this section by Chapter 1617 of the Statutes of 1971 shall apply only to 1959 survivor allowances payable April 1, 1972, and thereafter.

(e) This section does not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

(f) On and after the date determined by the board, all assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(g) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section is projected to have a surplus in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section is projected to have a deficit in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, its rate of contribution shall be increased until the projected deficit is paid.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1965, Ch. 977 and Ch. 1255; by Stats. 1967, Ch. 1699; by Stats. 1971, Ch. 1617; by Stats. 1974, Ch. 92; by Stats. 1976, Ch. 1436; by Stats. 1979, Ch. 730, effective 1/1/80, operative 1/1/81; by Stats. 1980, Ch. 316, effective 7/3/80; by Stats. 1981, Ch. 963; and by Stats. 1993, Ch. 1160; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 800; and by Stats. 2003, Ch. 519.)

§ 21572. 1959 Survivor Allowance—Second Level

(a) In lieu of benefits provided in Section 21571, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member who has the care of unmarried children, including stepchildren, of the member who are under 22 years

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of age or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars ($450) per month if there is one child or five hundred thirty-eight dollars ($538) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars ($225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars ($450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars ($88) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

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(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, and school safety members employed with a school district or community college district as defined in subdivision (i) of Section 20057, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

(f) This section does not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

(g) On and after January 1, 2000, all state members covered by this section shall be covered by the benefit provided under Section 21574.7.

(h) On and after the date determined by the board, all assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(i) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section is projected to have a surplus in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section is projected to have a deficit in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, its rate of contribution shall be increased until the projected deficit is paid.

(Added by Stats. 1975, Ch. 175, effective 6/30/75, operative 7/1/75; amended by Stats. 1977, Ch. 468; by Stats. 1979, Ch. 1201; by Stats. 1980, Ch. 316,

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effective 7/3/80; by Stats. 1981, Ch. 963; by Stats. 1982, Ch. 432; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1993, Ch. 1160; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555 and Ch. 800; by Stats. 2000, Ch. 135; Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; by Stats. 2003, Ch. 519; and by Stats. 2009, Ch. 188.)

§ 21573. 1959 Survivor Allowance—Third Level

(a) In lieu of benefits provided in Section 21571 or Section 21572, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one child, or eight hundred forty dollars ($840) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

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(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained the age of 62 years prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees that are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those

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provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20444. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency that, in its original contract or by amending its contract, first elects effective on or after January 1, 1985, and prior to July 1, 2001, to make this article applicable to local members employed by the agency. On or after January 1, 1985, and prior to July 1, 2001, contracting agencies already subject to Section 21571 or Section 21572 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section. Any public agency first contracting with the board on or after January 1, 1994, and prior to July 1, 2001, or any contracting agency amending its contract to remove exclusions of member classifications on or after January 1, 1994, and prior to July 1, 2001, that has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system, shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions

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shall not become effective unless approved by the Legislature in the annual Budget Act.

(j) This section shall apply to local members employed by a contracting agency that has included this benefit in its contract with the board on or before June 30, 2001.

(k) This section shall not apply to any contracting agency that first contracts with the board on or after July 1, 2001.

(l) On and after January 1, 2000, all eligible state and school members covered by this section shall be covered by the benefit provided under Section 21574.7.

(Added by Stats. 1984, Ch. 1579; amended by Stats. 1985, Ch. 176, effective 7/8/85, and Ch. 236, effective 7/25/85; by Stats. 1986, Ch. 222; by Stats. 1987, Ch. 860; by Stats. 1990, Ch. 658, effective 9/12/90; by Stats. 1992, Ch. 1154, effective 9/30/92; and by Stats. 1993, Ch. 1160; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555, Ch. 800 and Ch. 801; by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; and by Stats. 2009, Ch. 188.)

§ 21573.5. Repealed

(Repealed by Stats. 1999, Ch. 555.)

§ 21574. 1959 Survivor Allowance—Fourth Level—Local Member

(a) In lieu of benefits provided in Section 21571, 21572, or 21573, if the death benefit provided by Section 21532 is payable on account of a local member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the contracting agency, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the

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occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand nine hundred dollars ($1,900) per month if there is one child or two thousand two hundred eighty dollars ($2,280) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of nine hundred fifty dollars ($950) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid nine hundred fifty dollars ($950) per month.

(B) If there are two children, the children shall be paid one thousand nine hundred dollars ($1,900) per month divided equally between them.

(C) If there are three or more children, the children shall be paid two thousand two hundred eighty dollars ($2,280) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid nine hundred fifty dollars ($950) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred eighty dollars ($380) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid nine hundred fifty dollars ($950) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to members of a contracting agency that, by amending its contract, first elects effective on or after January 1, 1994, to make this section applicable to local members employed by the agency. On and after January 1, 1994, contracting agencies already subject to Section 21571, 21572, or 21573 may elect by contract amendment to be subject to this section. A public

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agency first contracting with the board or amending its contract to remove exclusions of member classifications on or after July 1, 2001, shall include this section or Section 21574.5 in its contract. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(e) The rate of contribution of an employer subject to this section shall be calculated using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(f) This section or Section 21574.5 shall apply to public agencies, employing eligible school safety members as defined in Section 20444, that first contract with the board on or after July 1, 2001.

(g) At the time the single benefit level provided under Section 21574.5 exceeds the single benefit level provided under this section, no new contracts or amendments to contracts shall provide for the benefits under this section.

(Added by Stats. 1993, Ch. 1160; amended by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats. 1999, Ch. 800 and Ch. 801; and by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21574.5. 1959 Survivor Allowance—Indexed Level—Local Member

(a) In lieu of benefits provided in Section 21571, 21572, 21573, or 21574, if the death benefit provided by Section 21532 is payable on account of a local member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

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(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the contracting agency, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand dollars ($1,000) per month if there is one child or one thousand five hundred dollars ($1,500) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of five hundred dollars ($500) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid five hundred dollars ($500) per month.

(B) If there are two children, the children shall be paid one thousand dollars ($1,000) per month divided equally between them.

(C) If there are three or more children, the children shall be paid one thousand five hundred dollars ($1,500) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid five hundred dollars ($500) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be five hundred dollars ($500) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid five hundred dollars ($500) per month.

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(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to members of a contracting agency that, by amending its contract, first elects on or after January 1, 2000, to make this section applicable to local members employed by the agency. On and after January 1, 2000, contracting agencies already subject to Section 21571, 21572, or 21573 may elect by contract amendment to be subject to this section. A public agency that first contracts with the board or amends its contract to remove exclusions of member classifications on or after July 1, 2001, shall include this section or Section 21574 in its contract. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(e) This section or Section 21574 shall apply to public agencies that employ eligible school safety members, as defined in Section 20444, and that first contract with the board on or after July 1, 2001.

(f) The rate of contribution of an employer subject to this section shall be calculated using a method determined by the board.

(g) In each subsequent year following the enactment of this section, the benefits prescribed by this section shall be indexed at a rate of 2 percent per year for both beneficiaries already receiving the benefit and for potential beneficiaries of members who die in the future.

(Added by Stats. 1999, Ch. 801; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00.)

§ 21574.7. 1959 Survivor Allowance—Fifth Level—State or School Member

(a) In lieu of benefits provided in Section 21571, 21572, or 21573, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age or are incapacitated because of a disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

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(3) The surviving spouse of the member who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the employer, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand five hundred dollars ($1,500) per month if there is one child or one thousand eight hundred dollars ($1,800) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of seven hundred fifty dollars ($750) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid seven hundred fifty dollars ($750) per month.

(B) If there are two children, the children shall be paid one thousand five hundred dollars ($1,500) per month divided equally between them.

(C) If there are three or more children, the children shall be paid one thousand eight hundred dollars ($1,800) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid seven hundred fifty dollars ($750) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred dollars ($300) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of

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his or her support from the member at the time of the member's death, shall be paid seven hundred fifty dollars ($750) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to state and school members effective on or after January 1, 2000.

(e) All assets and liabilities of state employers subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of state members employed by the state.

(f) All assets and liabilities of school employers, as defined in Section 20063, that are subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section.

(g) The rate of contribution of an employer subject to this section shall be calculated using a method determined by the board. Surplus assets shall be applied to reduce the rate of contribution. If a deficit exists, the rate of contribution shall be increased until the deficit is paid.

(h) On and after January 1, 2000, all state employees and school members shall be covered by this section.

(Added by Stats. 1999, Ch. 555; amended by Stats. 2001, Ch. 21, effective 6/25/01, operative 1/1/00; and by Stats. 2009, Ch. 188.)

§ 21575. Effect of Special Death Benefit on 1959 Survivor Allowance

When the survivor is entitled to receive a monthly allowance as a special death benefit provided by Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), or Article 5 (commencing with Section 21620) and at the same time is entitled to receive a 1959 survivor allowance, the 1959 survivor allowance payable in any month shall be reduced by the amount of the other allowance or benefit.

(Added by Stats. 1959, Ch. 2066 and Ch. 2067; amended by Stats. 1961, Ch. 140; and by Stats. 1965, Ch. 1255. Section as added by Stats. 1959, Ch. 2067, repealed by Stats. 1961, Ch. 84; amended by Stats. 1980, Ch. 316, effective 7/3/80; renumbered by Stats. 1995, Ch. 379.)

§ 21576. Applicability of Article

This article applies from and after January 1, 1960, or the date of a member's subsequent election, to state members and local miscellaneous members who are employees of school districts that are contracting agencies, or who are included in this system under Chapter 6 (commencing with Section 20610), who entered or enter membership after November 4, 1959, or who were members on

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November 4, 1959, and elected, pursuant to rules of the board, to be subject to this article, or who so elect within 90 days following October 1, 1961, in the manner prescribed. This article shall not apply to any member with respect to service that is included in the federal system.

An election pursuant to this section shall be in writing and shall be effective only when received in the office of the board. Contributions under this article for the member shall begin on the first of the month or the payroll period following the filing of the election. The board may, on the request of any member who on November 4, 1959, elected to be subject to this article, cancel the election if it finds that the election was made because of the member's mistake or misunderstanding, and that the member has acted diligently in making the request. The cancellation shall be effective as of the first day of the month following the board's action canceling the election.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1961, Ch. 162, operative 10/1/61; and Ch. 1296, effective 7/10/61; renumbered by Stats. 1995, Ch. 379.)

§ 21577. Article Not Applicable Until Contracting Agency Elects

This article shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this article by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees pursuant to Section 20469 is not required, or, in the case of contracts made after July 20, 1959, by express provision in the contract making the contracting agency subject to the provisions of this article. Any public agency first contracting with the board on and after January 1, 1994, which has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system shall be subject to this section.

Except as provided in Section 21578, this article shall not in any event apply to employees of a contracting agency whose services are included in the federal system. Members who are employees of a contracting agency when the agency becomes subject to this article and whose services are not included in the federal system shall have the right to elect to be subject to this article, that election to be made in the manner, and within the time periods, specified in rules adopted by the board. Employees of that contracting agency becoming members thereafter shall be subject to this article without election.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1968, Ch. 1331; by Stats. 1980, Ch. 316, effective 7/3/80; by Stats. 1982, Ch. 432; and by Stats. 1993, Ch. 1160; renumbered by Stats. 1995, Ch. 379.)

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§ 21578. Applicability of Article to Employees Following Merger of Contracting Agencies

This article shall apply to employees of a contracting agency whose services are included in the federal system when employees of another contracting agency who are subject to this article are made by lawful merger of the contracting agencies the employees of the contracting agency. In that case, the application of this article shall be limited to those employees to whom it applied prior to the merger and shall terminate upon expiration of five years following the date of the merger.

(Added by Stats. 1968, Ch. 1331; amended by Stats. 1984, Ch. 333; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21579. Applicability of Article—State or Local Member

Notwithstanding Sections 21576 and 21577, this article shall apply to a state member or a local member whose employer is subject to this article and whose services were included in the federal system in any period after the inclusion is terminated.

(Added by Stats. 1969, Ch. 1558, operative 12/1/69; renumbered by Stats. 1995, Ch. 379.)

§ 21580. 1959 Survivor Allowance to Surviving Spouse of Local Member at Age 60

Notwithstanding anything to the contrary in Sections 21571, 21572, 21573, and 21574, this article shall apply to a surviving spouse of a local member who has attained or attains the age of 60 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death and has not remarried subsequent to the member's death.

A contracting agency that is already subject to this article, on and after January 1, 1993, may elect to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees shall not be required. In the case of contracts made on or after January 1, 1993, this section shall apply to members of a contracting agency that either expressly includes this section in its contract or subsequently elects to amend its contract to make this section applicable to local members employed by the agency.

(Added by Stats. 1992, Ch. 1154, effective 9/29/92; amended by Stats. 1993, Ch. 1160; renumbered by Stats. 1995, Ch. 379.)

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§ 21581. Member Contribution Rate for 1959 Survivor Allowance Coverage

(a) The rate of contribution of a member subject to this article shall include, in addition to his or her normal rate, two dollars ($2) per month or fraction thereof, or ninety-three cents ($0.93) for each biweekly payroll period or fraction thereof, where salaries are paid on that basis. Those contributions shall not become a part of a member's accumulated contributions or be treated or administered as normal contributions and shall not be refundable to a member under any circumstances. Those contributions shall be available only for payment of 1959 survivor allowances.

(b) Notwithstanding subdivision (a), the total required monthly premium for Section 21574.5, as determined by the board, shall be offset by the uniform amortization of surplus assets within this account. If the total monthly premium is equal to, or less than, four dollars ($4), the member contribution portion shall be two dollars ($2) per month and the employer shall pay the difference, if any. If the total monthly premium required exceeds four dollars ($4), the member and the employer shall evenly share the total required monthly premium.

(c) Notwithstanding subdivision (a), the total monthly premium required for Section 21574.7, as determined by the board, shall be offset by the uniform amortization of surplus assets within this account. Member contributions shall be two dollars ($2) per month until such time as the future required monthly premium exceeds four dollars ($4), and the employer shall pay the difference between the total required monthly premium and the member's contribution. Once the total required monthly premium exceeds four dollars ($4), the member and the employer shall evenly share the required monthly premium.

(Added by Stats. 1959, Ch. 2066; amended by Stats. 1980, Ch. 316, effective 7/3/80; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 555 and Ch. 801.)

§ 21582. Payment of Contributions by Collective Bargaining Agreement—CSU

Notwithstanding any other provision of this article, if so agreed to in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, as it pertains to represented employees of the California State University, the employer may pay, in addition to the employer contributions, all or a portion of the employee contributions required for the benefit payable pursuant to Section 21574.7 or the employees may pay, in addition to the employee contributions, all or a portion of the employer contributions required for the benefit payable pursuant to Section 21574.7.

(Added by Stats. 1987, Ch. 860; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2005, Ch. 328.)

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§ 21583. Election of 1959 Survivor Allowance Coverage—Local Member

Notwithstanding any other provision of law, a local member may elect, within 90 days after the effective date of the amended contract, to have the 1959 survivor allowance coverage under this article.

The effective date of coverage shall be the date that the member first became eligible for the 1959 survivor allowance. The member shall contribute two dollars ($2) for every month from the date of original eligibility.

This section shall not apply to any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for the approval of contracts, except that an election among the employees is not required.

This section shall not apply to members while their services are included in the federal system.

(Added by Stats. 1993, Ch. 1160; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 4. PRERETIREMENT GROUP TERM LIFE INSURANCE

§ 21600. Purpose

(a) The purpose of this article is to provide group term life insurance benefits for members of this system who are employees of the state or the university. Notwithstanding any other provision of this part, this article shall not apply to a school member, or any other local member.

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

(Added by Stats. 1974, Ch. 374; amended by Stats. 1976, Ch. 341, effective 7/7/76, operative 7/1/76; and by Stats. 1978, Ch. 776; repealed and added by Stats. 1995, Ch. 379.)

§ 21601. Establishment of Insurance Benefits Account

A separate account shall be established in the retirement fund to be known as the Insurance Benefits Account. Moneys in the account shall be expended for the sole purpose of payment of insurance benefits under this article. Interest shall be credited to the account at the annual rate and in the same manner as interest is credited to employer and employee contributions in the retirement fund.

(Added by Stats. 1974, Ch. 374, effective 6/30/74, operative 7/1/74; renumbered by Stats. 1995, Ch. 379.)

§ 21602. Transfer of Funds to Insurance Benefits Account

(a) The board shall transfer annually on July 1 during any period of insurance from accumulated state contributions on account of current service to the Insurance Benefits Account the amount estimated to be necessary for payment during that fiscal year, of the portion of the insurance benefit prescribed in subdivision (b) of Section 21605 plus any deficiency in the transfer for the previous fiscal year for that purpose.

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

(Added by Stats. 1974, Ch. 374, effective 6/30/74, operative 7/1/74; amended by Stats. 1977, Ch. 70; and by Stats. 1978, Ch. 776; renumbered by Stats. 1995, Ch. 379.)

§ 21603. "Insured Member"—State or University Employee

An insured member, for purposes of this part, is a member of this system who is a state or university employee and whose death occurs under conditions specified in Section 21604.

(Added by Stats. 1974, Ch. 374, effective 6/30/74; amended by Stats. 1976, Ch. 341, effective 7/7/76, operative 7/1/76; renumbered by Stats. 1995, Ch. 379.)

§ 21604. Conditions for Payment of Insurance Benefit

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

(a) Death occurs during any of the following:

(1) While in state service.

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

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

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

(b) If either of the following exists:

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

(2) If an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary has not been elected and if an allowance under Section 21624, 21627, 21629, or 21630 is not

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payable, and death occurs on or after the effective date of retirement and before the mailing of a retirement allowance warrant.

(c) Death occurs during a period of insurance.

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

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

(Added by Stats. 1974, Ch. 374, effective 6/28/74, operative 7/1/74; amended by Stats. 1974, Ch. 665, effective 9/5/74; by Stats. 1978, Ch. 799; by Stats. 1981, Ch. 609; by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906.)

§ 21605. Insurance Benefit Amount

The insurance benefit shall be the sum of the following amounts:

(a) Five thousand dollars ($5,000).

(b) An amount equal to 50 percent of the annual compensation earnable by the deceased member during the 12 months immediately preceding his or her death or the compensation earnable by the member at the time of becoming eligible for benefits pursuant to Section 21160 if higher, or if a member also has state service in an employment in which employees are ineligible to be insured members, a proportionate part of that amount in the ratio of eligible service to total service. No amount shall be paid under this subdivision if the member is eligible for service retirement or the member is subject to benefits pursuant to Section 21547.

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

(Added by Stats. 1974, Ch. 374; amended by Stats. 1978, Ch. 776; and by Stats. 1993, Ch. 513; renumbered by Stats. 1995, Ch. 379.)

ARTICLE 5. POSTRETIREMENT DEATH BENEFITS

§ 21620. $500 Retired Death Benefit; Applicability

(a) Upon the death of any person, after retirement and while receiving a retirement allowance from this system, there shall be paid to his or her beneficiary

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as he or she shall nominate by written designation duly executed and filed with the board, the sum of five hundred dollars ($500), to be provided from contributions by the state or contracting agency, as the case may be.

(b) This section shall apply to all contracting agencies and to the employees of those agencies.

(Added by Stats. 1953, Ch. 1470; amended by Stats. 1968, Ch. 1412; and by Stats. 1969, Ch. 751, operative 12/1/69; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906; and by Stats. 2000, Ch. 1002.)

§ 21621. Effect of Lump-Sum Death Benefit from Other Public Retirement System

If the beneficiary of a member retired under this system is entitled to receive a comparable lump-sum death benefit from any other retirement system supported, in whole or in part, by public funds in which he or she was a member in employment subsequent to his or her last employment in which he or she was a member of this system, no payment shall be made under Section 21620, 21622, 21623, 21623.5, or 21623.6 providing for payment of a lump-sum death benefit to a member's designated beneficiary.

(Added by Stats. 1963, Ch. 768; amended by Stats. 1978, Ch. 1180, effective 9/26/78; by Stats. 1980, Ch. 799; and by Stats. 1990, Ch. 1701; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 1002; and by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 21622. $600 Retired Death Benefit—Contracting Agency

(a) In lieu of benefits provided by Section 21620, upon the death of any person, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she shall nominate by written designation duly executed and filed with the board, the sum of six hundred dollars ($600), to be provided from contributions by the employer.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and, (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.

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(d) This section shall not apply to any contracting agency, except for those contracting agencies that are school employers and those school districts or community college districts, as defined in subdivision (i) of Section 20057, until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after January 1, 1981, by express provision in the contract making the contracting agency subject to this section.

(Added by Stats. 1980, Ch. 799; amended by Stats. 1981, Ch. 609; amended by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 947 and Ch. 1002.)

§ 21623. $2,000 Retired Death Benefit—State or School Member

(a) In lieu of benefits provided by Section 21620 or 21622, upon the death of any retired state or school member, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she 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 by the employer.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation.

(d) This section shall apply to a school employer and a retired school member whose death after retirement occurs on or after January 1, 2001. This section shall not apply to any contracting agency or local member, except those contracting agencies that are school employers and those school districts or community college districts as defined in subdivision (i) of Section 20057.

(Added by Stats. 1990, Ch. 1701; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2000, Ch. 947 and Ch. 1002.)

§ 21623.5. Optional Increased Retired Death Benefit Levels—Local Member

(a) In lieu of benefits provided by Sections 21620 and 21622 upon the death of any local member, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she shall nominate by written designation duly executed and filed with the board, the sum of two thousand dollars ($2,000), three thousand dollars ($3,000), four thousand dollars ($4,000), or five thousand dollars ($5,000), whichever amount is designated by the employer in its contract, to be provided from contributions by the employer.

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(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under the system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation.

(d) This section shall not apply to a contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required or in the case of contracts made on or after January 1, 1999, except by express provision in the contract making the contracting agency subject to this section.

(Added by Stats. 1998, Ch. 296; amended by Stats. 2000, Ch. 947 and Ch. 1002.)

§ 21623.6. Optional Increased Retired Death Benefit Levels—School Member

(a) In lieu of benefits provided by Sections 21620, 21622, and 21623, upon the death of any school member, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she shall nominate by written designation duly executed and filed with the board, the sum of three thousand dollars ($3,000), four thousand dollars ($4,000), or five thousand dollars ($5,000), whichever amount is designated by the employer in its contract, to be provided from contributions by the employer.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under the system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation.

(d) This section shall not apply to a school employer unless and until it elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made on or after January 1, 2001, except by express provision in the contract making the school employer subject to this section.

(Added by Stats. 2000, Ch. 947.)

§ 21624. Post-Retirement Survivor Allowance—Specified State or Local Members

Upon the death of a patrol, state peace officer/firefighter, or state safety member whose retirement for service or disability is effective on or after April 1, 1973, a

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monthly allowance derived from employer contributions equal to a percentage of the amount of his or her retirement allowance as it was at his or her death based on service credited to him or her as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions of the member, shall be paid to the surviving spouse throughout life. The percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition that disabled that child prior to attaining age 18 and that has continued without interruption after age 18, until the disability ceases. If, at the time of the retired member's death, there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If, on the effective date of his or her retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

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

(Added by Stats. 1949, Ch. 1498; amended and renumbered by Stats. 1951, Ch. 612; amended by Stats. 1955, Ch. 1412; by Stats. 1965, Ch. 977; and by Stats. 1971, Ch. 249; repealed and added by Stats. 1972, Ch. 1327 and Ch.1328, operative 4/1/73; repealed by Stats. 1973, Ch. 389; amended by Stats. 1980, Ch. 1102; by Stats. 1981, Ch. 963; by Stats. 1984, Ch. 280, effective 7/3/84; and by Stats. 1988, Ch. 650; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 800.)

§ 21625. Lifetime Payment Only to Surviving Spouse if Member Elected Qualified Joint and Survivor Annuity

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

(Added by Stats. 1992, Ch. 374; renumbered by Stats. 1995, Ch. 379.)

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§ 21626. "Member" and "Surviving Spouse"

"Member" for purposes of Section 21624 also includes those local miscellaneous members and local safety members who on March 31, 1973 were subject to former Sections 21264, as amended by Chapter 249 of the Statutes of 1971 and 21264.1, as added by Chapter 150 of the Statutes of 1971, as those sections read prior to their repeal on April 1, 1973. "Member" shall not include any other local miscellaneous or local safety member or apply to any contracting agency employing the member until the agency elects to be subject to Section 21624 by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among employees shall not be required or, in the case of contracts made on or after April 1, 1973, by express provision of the contract. The election may be exercised separately with respect to local safety members who are firefighters, local safety members who are police officers, local safety members other than police officers or firefighters, and local miscellaneous members. The operative date of Section 21624 for purposes of application to that section to those local members shall be the effective date of the contract or contract amendment.

"Surviving spouse" shall mean, for a member subject to Section 21624, who retires for disability retirement on or after January 1, 1995, a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

(Added by Stats. 1963, Ch. 2031; amended by Stats. 1965, Ch. 977; by Stats. 1971, Ch. 249; and by Stats. 1972, Ch. 1098; repealed and added by Stats. 1972, Ch. 1327 and Ch. 1328, operative 4/1/73; renumbered by Stats. 1972, Ch. 389; amended by Stats. 1994, Ch. 408; renumbered by Stats. 1995, Ch. 379.)

§ 21626.5. Post-Retirement Survivor Allowance—Surviving Domestic Partner

For purposes of Section 21624, 21626, 21627, 21629, or 21630, a surviving domestic partner shall be treated in the same manner as a surviving spouse if either:

(a) The domestic partnership was registered for one year prior to the member's service retirement date or at the disability retirement date and continuously until the date of the member's death.

(b) The member retired prior to January 1, 2006, and both the member and his or her domestic partner, who currently are in a state-registered domestic partnership, sign an affidavit stating that, at the time prescribed by the retirement system for married spouses to qualify for survivor continuance, the member and the domestic partner would have qualified to be registered as domestic partners pursuant to Section 297 of the Family Code.

(Added by Stats. 2005, Ch. 418.)

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§ 21627. Post-Retirement Survivor Allowance—Specified State Safety Members

(a) An eligible survivor of a state safety member who retired prior to April 1, 1973, and died prior to September 28, 1987, shall receive a monthly survivor's allowance, derived solely from employer contributions and not from any contributions from the member, equal to 50 percent of the amount of the member's retirement allowance payable to the member at the time of his or her death. The member's monthly allowance shall have been based on his or her credited service. An eligible survivor of a state safety member who retired prior to April 1, 1973, and died on or after September 28, 1987, shall receive a monthly survivor's allowance determined pursuant to Section 21624.

(b) The benefit provided by this section shall not be offset by any entitlement of the survivor under the federal system.

(c) The benefit is payable to the surviving spouse for life.

(d) If there is no surviving spouse of the retired member, or upon the death of a surviving spouse, the benefit authorized by this section shall be paid to an eligible child or to eligible children.

(e) If, at the time of the death of the retired member there is no surviving spouse or eligible child or children, the benefit authorized by this section shall be paid to the parent or parents of the deceased member who were dependent upon the member for support.

(f) If, at the effective date of his or her retirement, the member was unmarried, or if, at the time of his or her death, the member had no eligible child or children, had no dependent parent or parents, and had elected an optional settlement, no survivor's allowance authorized by this section shall vest in or be paid to any individual.

(g) "Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a period of time beginning one year or more prior to his or her retirement and continuing without interruption until the death of the member.

(h) "Eligible child," for purposes of this section, means an unmarried child of the deceased member who (1) has not attained age 18, or (2) is over age 18 but disabled due to a condition that existed and disabled the child prior to his or her 18th birthday and that has continuously disabled the person after having reached age 18. Eligibility of the child for the benefits of this section shall terminate upon the earlier of the following:

(1) Attainment of age 18, unless the disability exemption applies.

(2) Marriage of the child prior to age 18.

(3) Cessation of a child's disability.

(4) Death of a child.

(i) The allowance paid pursuant to this section shall be adjusted to reflect a one-half continuance allowance with no offset by reason of participation in the

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federal system. The adjustment provided by this section shall be applied to any survivor receiving a continuance allowance on September 28, 1987. Nothing in this section was or is intended to, or shall be construed to, impair any vested rights of any eligible survivor of a state safety member who retired prior to April 1, 1973, and who died on or after September 28, 1987.

(Added by Stats. 1972, Ch. 1328, operative 4/1/73; amended by Stats. 1981, Ch. 548; repealed and added by Stats. 1987, Ch. 1315, effective 9/28/87; amended by Stats. 1988, Ch. 763; renumbered by Stats. 1995, Ch. 379.)

§ 21628. 15% Increase to Optional Settlement Benefits In Lieu of Post-Retirement Survivor Allowance—Specified Local Members

The allowance provided by Section 21624 shall be paid with respect to a local miscellaneous or local safety member whose retirement was effective prior to his or her employer's election to be subject to the section with respect to employees in his or her employment, if at retirement he or she did not elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4. The retirement allowance payable to a retired member who elected any of these optional settlements, or to a beneficiary of a retired member, shall be increased by 15 percent, for time on and after the operative date and prior to the next annual adjustment under Article 3 (commencing with Section 21310) of Chapter 13 and the base allowance shall be increased by 15 percent for purpose of that and all subsequent annual adjustments. The amount payable to the beneficiary under the optional settlement shall be increased by the same percentage and in the same manner as the increase provided for the payment to the member.

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

(Added by Stats. 1972, Ch. 1327 and Ch. 1328, operative 4/1/73; Section 21263.3 as added by Ch. 1327, repealed by Stats. 1973, Ch. 389; Section 21263.3 as added by Ch. 1328, amended by Stats. 1977, Ch. 766; by Stats. 1980, Ch. 1264, effective 9/30/80; and by Stats. 1984, Ch. 144; renumbered by Stats. 1995, Ch. 379.)

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§ 21629. Post-Retirement Survivor Allowance—50% to Survivors of Specified State or School Members—No Service Included in Federal System

Upon the death, after the effective date of retirement, of a state miscellaneous member none of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1974, or of a school member or school safety member none of whose service rendered in school service or school safety service has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance derived from employer contributions equal to 50 percent of the amount of his or her retirement allowance as it was at his or her death and based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement other than optional settlement 1 shall apply only to a portion of his or her allowance as provided in Section 21451 with respect to allowances under Section 21624. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

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

(Added by Stats. 1974, Ch. 374; amended by Stats. 1975, Ch. 195, effective 8/22/75; by Stats. 1979, Ch. 1201; by Stats. 1980, Ch. 1102; by Stats. 1981, Ch. 963; by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1994, Ch. 408; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 800.)

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§ 21630. Post-Retirement Survivor Allowance—25% to Specified State or School Members—Some Service Included in Federal System

Upon death after the effective date of retirement of a state miscellaneous member some of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1975, or of a school member or school safety member some of whose service rendered in school employment has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance, derived from employer contributions, equal to a percentage of the amount of his or her retirement allowance as it was at his or her death based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life. The percentage shall be 25 percent for an allowance based on service that was also covered under the federal system and 50 percent for an allowance based on any other service, except that the percentage shall be 50 percent for the allowance of a member whose service was subject to Section 21076 or 21077 and who had become a member prior to November 1, 1988. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition that disabled that child prior to attaining age 18 and that has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement, other than optional settlement 1, shall apply only to a portion of the allowance as provided in Section 21451 with respect to allowances under Section 21624. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

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

(Added by Stats. 1975, Ch. 175, effective 6/30/75, operative 7/1/75; amended by Stats. 1979, Ch. 1201; by Stats. 1980, Ch. 1102; by Stats. 1981, Ch. 963; by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; by Stats. 1988, Ch. 331, effective 7/14/88; by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 1994, Ch. 408; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 800.)

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§ 21631. Post-Retirement Survivor Allowance; Conditions; Application; Data Required—School Members

(a) The monthly allowance provided by Sections 21629 and 21630 shall be paid on account of retired school members who did not at retirement elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4.

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

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

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

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

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

(Added by Stats. 1982, Ch. 330, effective 6/30/82, operative 7/1/83; amended by Stats. 1987, Ch. 806; renumbered by Stats. 1995, Ch. 379.)

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§ 21632. Post-Retirement Survivor Allowance; Conditions; Application; Data Required—State Miscellaneous Members

(a) The monthly allowances provided by Sections 21629 and 21630 shall be paid on account of retired state miscellaneous members who did not at retirement elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4 and whose retirement dates were effective before July 1, 1974, with respect to members who were not covered by the federal system, and before July 1, 1975, with respect to members who were covered under the federal system. Upon receipt of a written application by the board, the benefits provided by this section shall be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of miscellaneous service as a state member. However, if, on the date the application is received by the board, there is no longer in existence a record in the board's possession setting forth the retirement data relating to the retired member, the applicant survivor or survivors of the retired member shall be required, as a condition precedent to his or her entitlement to the benefit provided by this section, to furnish documentary evidence satisfactory to the board to enable it to determine the date of the retired member's death and the amount of the member's allowance that was currently payable at the time of death. The net benefit payable to the retired member at the time of death shall be determined on the basis of the evidence submitted, unless the board is able to determine the unmodified allowance payable at the time of death. If the allowance payable to an eligible survivor is based on evidence furnished by the survivor or partial member records in the board's possession, or both, the board shall use that information to assume any additional factors required to calculate the allowance payable. The benefits shall be subject to the same eligibility and termination provisions that apply to members at retirement and shall, subject to subdivision (b), be paid only for the period of time commencing on the first of the month following receipt by the board of the application for the benefits. The board has no duty to locate or notify any potential survivor or to provide the name or address of any potential survivor to any person, agency, or entity for the purpose of notifying survivors.

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

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

(Added by Stats. 1977, Ch. 1186, effective 9/30/77; amended by Stats. 1978, Ch. 799; and by Stats. 1984, Ch. 788; renumbered by Stats. 1995, Ch. 379.)

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§ 21633. Post Nonindustrial Disability Retirement Survivor Allowance—Specified Patrol or State Safety Members

The monthly allowance provided by Section 21624 shall be paid on account of patrol and state safety members retired for nonindustrial disability with effective dates of retirement prior to April 1, 1972, and who did not at retirement elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4. Upon receipt of a written application by the board, the benefits provided by this section shall also be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of service as a patrol or state safety member if the retired member was alive and receiving a monthly allowance on June 30, 1974. The benefits shall be subject to the same eligibility and termination provisions that apply to members at retirement and shall be paid only for the period of time commencing on the first of the month following receipt by the board of the application for those benefits.

(Added by Stats. 1979, Ch. 120, effective 6/15/79; renumbered by Stats. 1995, Ch. 379.)

§ 21634. Surviving Spouse Eligibility for Post-Retirement Survivor Allowance

Any provision of this article or Article 4 (commencing with Section 21350) of Chapter 13 imposing as a condition for payment of an allowance to a surviving spouse that he or she have been married to the member for at least one year prior to retirement shall be deemed satisfied if the member was required to retire because of attainment of mandatory retirement age within one year following an amendment to the retirement law or the contracting agency's contract lowering the mandatory retirement age for his or her category of membership, and the surviving spouse was married to the member on the date of the amendment.

(Added by Stats. 1969, Ch. 153, effective 6/2/69; amended by Stats. 1976, Ch. 1436; renumbered by Stats. 1995, Ch. 379.)

§ 21635. Post-Retirement Survivor Allowance—Effect of Surviving Spouse Remarriage

Notwithstanding any other provisions of this part, survivor continuance allowances payable to surviving spouses upon death after retirement of a member do not cease upon remarriage if the remarriage occurs on or after January 1, 1985, in the case of local members of contracting agencies that elected to be subject to this section, or all members on or after January 1, 2000. However, pursuant to Section 22822, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse. The survivor continuance allowance shall be restored if that allowance has been discontinued upon the spouse's remarriage prior to January 1, 2000.

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(a) The allowance shall be resumed on January 1, 2000, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later.

(b) The amount of the benefits due shall be calculated as though the allowance had never been discontinued because of remarriage, and is not payable for the period between the date of discontinuance because of remarriage and the effective date of resumption.

(c) The board has no duty to identify, locate, or notify a spouse who previously had his or her allowance discontinued because of remarriage.

(Added by Stats. 1984, Ch. 1203; amended by Stats. 1985, Ch. 176, effective 7/8/85; by Stats. 1989, Ch. 497, effective 9/19/89; and by Stats. 1990, Ch. 658, effective 9/12/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 1120; by Stats. 1999, Ch. 800; and by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 21635.5. Post Industrial Disability Retirement Survivor Allowance—Effect of Surviving Spouse Remarriage—Specified Local Safety Members

(a) Notwithstanding any other provision of this part, on and after the effective date of this section, the remarriage of the surviving spouse of a deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whose death after retirement was due to injuries which resulted in industrial disability retirement, may not result in the reduction or cessation of any survivor continuance if the remarriage occurs on or after January 1, 1998. However, pursuant to Section 22822, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

(b) The surviving spouse of a deceased retired local safety member whose death after retirement was due to injuries which resulted in industrial disability retirement who previously lost entitlement due to remarriage shall be entitled to resume payment of the benefit effective either on January 1, 1999, or the first of the month following receipt by the board of a written application for resumption of benefits, whichever date is later. The amount of the benefit payable shall be calculated as though the benefit had been paid without interruption from the date of remarriage through the benefit resumption effective date.

(c) The board has no duty to identify, locate, or notify a remarried spouse who previously lost entitlement about the resumption of benefits provided in this section. The board has no duty to provide the name or address of any remarried spouse to any person, agency, or entity for the purpose of notifying those who may be eligible under this section.

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(d) Nothing in this section may be construed to imply that the benefits addressed will be paid retroactively.

(Added by Stats. 1998, Ch. 191; amended by Stats. 2004, Ch. 69, effective 6/24/04.)

Chapter 15. Long-Term Care

SECTION
§ 21660. Title
§ 21661. Long-Term Care Insurance Plans
§ 21662. Administrative Costs
SECTION
§ 21663. Contracts
§ 21664. Public Employees' Long-Term Care Fund

§ 21660. Title

This chapter may be cited as the Public Employees' Long-Term Care Act.

(Added by Stats. 1991, Ch. 9, effective 12/13/90; renumbered by Stats. 1995, Ch. 379.)

§ 21661. Long-Term Care Insurance Plans

(a) For purposes of this section:

(1) "Adult children" means children who are at least 18 years of age.

(2) "Domestic partners" means adults in a domestic partnership as defined in Section 22771.

(3) "Siblings" means siblings who are at least 18 years of age.

(4) "Spouses" means parties in a marital relationship recognized under the Internal Revenue Code, including, but not limited to, Section 7702B(f)(2) of Title 26 of the United States Code, or any other applicable authority that governs eligibility for a federally qualified state long-term care plan.

(b) The board shall contract with carriers offering long-term care insurance plans.

The long-term care insurance plans shall be made available periodically during open enrollment periods as determined by the board.

(c) The board shall award contracts to carriers who are qualified to provide long-term care benefits, and may develop and administer self-funded long-term care insurance plans. The board may offer one or more long-term care insurance plans.

(d) The long-term care insurance plans shall include home, community, and institutional care and shall, to the extent determined by the board, provide substantially equivalent coverage to that required under Chapter 2.6 (commencing with Section 10231) of Part 2 of Division 2 of the Insurance Code, if the carrier has been approved by the Department of Managed Health Care pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(e) Except as prohibited by the Internal Revenue Code, including, but not limited to, Section 7702B(f)(2) of Title 26 of the United States Code, or any other authority that governs eligibility for a federally qualified state long-term care plan, the classes of persons who shall be eligible to enroll are:

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(1) Active and retired members and annuitants of the Public Employees' Retirement System, and their spouses, domestic partners, parents, siblings, adult children, and spouses' parents.

(2) Active and retired members and annuitants of the State Teachers' Retirement Plan, and their spouses, domestic partners, parents, siblings, adult children, and spouses' parents.

(3) Active and retired members and annuitants of the Judges' Retirement System, and their spouses, domestic partners, parents, siblings, adult children, and spouses' parents.

(4) Active and retired members and annuitants of the Judges' Retirement System II, and their spouses, domestic partners, parents, siblings, adult children, and spouses' parents.

(5) Active and retired members and annuitants of the Legislators' Retirement System, and their spouses, domestic partners, parents, adult children, siblings, and spouses' parents.

(6) Members of the California Assembly and Senate and their spouses, domestic partners, parents, siblings, adult children, and spouses' parents.

(7) Active and retired members and annuitants, and other classes of employees of a public agency that is located in this state, and their spouses, domestic partners, parents, siblings, adult children, and spouses' parents.

(f) The board may expand eligibility to all classes of persons who meet the requirements of this section, applicable provisions of the Internal Revenue Code, or any other authority that governs eligibility for a federally qualified state long-term care plan.

(g) An individual specified in subdivision (e) or (f) shall not be eligible unless he or she resides in the United States, its territories and possessions, or in a country in which a provider network can be established comparable in quality and effectiveness to those established in the United States.

(h) Notwithstanding subdivision (e) or (f), a person shall not be enrolled unless he or she meets the eligibility and underwriting criteria established by the board.

(i) Notwithstanding subdivision (e) or (f), enrollment of active employees of the State of California shall be subject to Section 19867.

(j) The board shall establish eligibility criteria for enrollment, establish appropriate underwriting criteria for potential enrollees, define the scope of covered benefits, define the criteria to receive benefits, and set any other standards as needed.

(k) The long-term care insurance plans shall not become part of, or subject to, the retirement or health benefits programs administered by the system.

(*l*) For any self-funded long-term care plan developed by the board, the premiums shall be deposited in the Public Employees' Long-Term Care Fund.

(Added by Stats. 1991, Ch. 9, effective 12/13/90; amended by Stats. 1992, Ch. 1154, effective 9/29/92; by Stats. 1993, Ch. 1144; and by Stats. 1995, Ch. 850; amended and renumbered by Stats. 1996, Ch. 906; amended by Stats.

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1999, Ch. 525; by Stats. 2000, Ch. 857; by Stats. 2001, Ch. 185; by Stats. 2002, Ch. 664 and Ch. 871; by Stats. 2003, Ch. 519; and by Stats. 2013, Ch. 768.)

§ 21662. Administrative Costs

The board shall consult with employer and employee representatives of the state and local government entities for whom the board administers retirement benefits. The board and each employer is authorized to recover the administrative costs of the long-term care insurance program from insurance carriers and premiums. Costs recovered by the board from insurance carriers and premiums shall be deposited in the Public Employees' Long-Term Care Fund.

(Added by Stats. 1991, Ch. 9, effective 12/13/90; amended by Stats. 1992, Ch. 1154, effective 9/29/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 745, effective 10/12/01; and by Stats. 2002, Ch. 871.)

§ 21663. Contracts

(a) The board may enter into contracts with long-term care insurance carriers, pursuant to Section 21661, and with entities offering services relating to the administration of long-term care plans, without compliance with any provisions of law relating to competitive bidding.

(b) The board may fix the beginning and ending dates of the contracts in a manner it deems consistent with administration of this part. The board shall periodically review each contract according to a reasonable schedule mutually agreed upon by the parties. Irrespective of any agreed-upon termination date or period for review, the board may terminate a contract at any time under conditions determined by the board, and may automatically renew a contract from term to term, or for any lesser period it deems appropriate.

(c) The Department of General Services shall review and approve all contracts entered into pursuant to this section, to ensure that each written instrument contains the principal necessary provisions and proper technical terms and phrases, is formally correct, is arranged in proper and methodical order, and is adapted to the specific requirements of the agreement between the parties. The department's review and approval does not supersede the board's authority to negotiate and reach agreement with long-term care insurance carriers or with entities offering services relating to the administration of long-term care plans, with respect to the rates, terms, and conditions of contracts entered into pursuant to this section.

(Added by Stats. 1992, Ch. 1154, effective 9/29/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2003, Ch. 519.)

§ 21664. Public Employees' Long-Term Care Fund

(a) The Public Employees' Long-term Care Fund is established for the purpose of administering any self-funded long-term care plan developed by the board and for recovering the administrative costs of the long-term care program from insurance carriers and premiums. Notwithstanding Section 13340, the Public Employees' Long-term Care Fund is continuously appropriated, without regard to fiscal years, to the board to carry out the purposes of this article, consistent with its fiduciary duty. Funding for the board's administrative costs is subject to appropriation by the Legislature and shall be paid out of the Public Employees' Long-term Care Fund.

(b) The board may set the premiums for any self-funded long-term care plan and assess charges against carriers and the premiums to recover the administrative costs of the long-term care program.

(c) The board shall have the exclusive control of the administration and investment of the Public Employees' Long-term Care Fund. The board may invest funds in the Public Employees' Long-term Care Fund pursuant to the law governing its investment of the retirement fund. The board may authorize its investment staff, or may contract with independent investment managers, to manage the investments of the Public Employees' Long-term Care Fund.

(d) Income, of whatever nature, earned on the Public Employees' Long-term Care Fund during any fiscal year, shall be credited to the fund.

(e) The Legislature finds and declares that the Public Employees' Long-term Care Fund is a trust fund held for the exclusive benefit of enrollees in the long-term care plans offered pursuant to this article.

(f) It is the intent of the Legislature to provide, in the future, appropriate resources to properly administer the long-term care program.

(Added by Stats. 1992, Ch. 1154, effective 9/29/92; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2002, Ch. 871.)

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Chapter 16. Deferred Compensation

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§ 21670. Establishment of Deferred Compensation Program

The board may establish one or more tax-preferred retirement savings programs for California public employees. These programs shall be made available to all employees of a participating employer under procedures established by the board unless participation is subject to the terms of any memorandums of understanding between the employer and the employees

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 502; and by Stats. 2010, Ch. 639.)

§ 21671. Plans Included in Deferred Compensation Program

A tax-preferred retirement savings program established pursuant to Section 21670 may grant the maximum tax-preferred retirement savings opportunities available under current federal law, and may provide for employer as well as employee contributions. The program may include, but is not limited to, one or more of the following plans:

(a) A deferred compensation plan described under Section 457 of Title 26 of the United States Code.

(b) A program described under Section 403(b) of Title 26 of the United States Code. Section 770.3 of the Insurance Code shall not apply to the board for the purposes of contracting for those annuities.

(c) Any other form of a tax-preferred retirement savings arrangement authorized by the provisions of Title 26 of the United States Code and approved by the board.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639.)

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§ 21671.5. Tax-Preferred Retirement Savings Program Conformity

The design and administration of a tax-preferred retirement savings program established pursuant to Section 21670 shall conform with the applicable provisions of Title 26 of the United States Code.

(Added by Stats. 2010, ch. 639.)

§ 21672. Components of Deferred Compensation Program

A tax-preferred retirement savings program may include one or more of the following components:

(a) Investment fund options for participants, as part of the deferred compensation program administered for state employees by the Department of Human Resources.

(b) Investment fund options for other participants.

(c) Annuity contracts on behalf of all participants.

(d) Asset management, administrative, or related services.

(Added by Stats. 1990, Ch. 1659; amended by Stats. 1992, Ch. 618; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 502; by Stats. 2010, ch. 639; and by Stats. 2012, Ch. 665.)

§ 21673. Investment Fund Options

(a) The investment fund options under subdivision (b) of Section 21672 may include, but not be limited to, any or all of the following:

(1) Mortgage-backed securities funds, including securities backed by California residential real estate mortgages.

(2) Equity funds.

(3) Balanced funds.

(4) Corporate bond funds.

(5) Government bond funds.

(6) Stable principal funds, including certificates of deposit and money market accounts.

(7) Guaranteed investment contracts.

(b) The board shall research any one or combination of investment options for offer to members, including the feasibility of creating an option for investment in the program established under Section 20200.

(Added by Stats. 1992, Ch. 618; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 906.)

§ 21674. Investment Fund Options—Agreements

(a) Investment fund options under subdivision (a) of Section 21672 shall be provided through a written interagency agreement between the board and the Department of Human Resources.

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(b) Except for investments made pursuant to subdivision (a), participating employers shall enter into a written contractual agreement with the board.

(c) Participants shall enter into contractual agreements that are required to effectuate participation in a tax-preferred retirement savings program, including employees participating under a program described in subdivision (a) or (b) of Section 21671, or any other program that provides for the deferral of compensation program or written salary reduction agreements with their employers, for the purpose of making deferrals or for annuity contracts.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 502; by Stats. 1997, Ch. 951; by Stats. 2010, ch. 639; and by Stats. 2012, Ch. 665.)

§ 21675. Development and Administration Costs

All development and administration costs of tax-preferred retirement savings programs shall be paid by employers and plan participants

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 502; and by Stats. 2010, ch. 639.)

§ 21676. Establishment of Public Employees' Deferred Compensation Fund

The Public Employees' Deferred Compensation Fund is hereby established. Notwithstanding any other provision of law, the board may:

(a) Establish one or more accounts, trusts, group trusts, or similar vehicles within the fund.

(b) Retain a bank, trust company, or similar entity to serve as repository of the fund, or of any account, trust, group trust, or other similar vehicle within the fund.

The board may also retain a bank or trust company to serve as a custodian for safekeeping, recordkeeping, delivery, securities valuation, investment performance reporting, or other services in connection with investment of the fund or of any account, trust, group trust, or similar vehicle within the fund.

Notwithstanding Section 13340, all moneys in the fund are continuously appropriated, without regard to fiscal years, to the board to carry out the purposes of this chapter.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639.)

§ 21677. Public Employees' Deferred Compensation Fund—Generally

The Public Employees' Deferred Compensation Fund shall consist of the following sources and receipts, for which disbursements shall be accounted for as set forth below:

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(a) Fees determined by the board and paid by employers and plan participants for the cost of administering the tax-preferred retirement savings programs.

(b) Asset management fees as determined by the board assessed against investment earnings of investment options or other investment funds provided by the board to either the state or other public employers. Asset management fees shall be disclosed to participants.

(c) (1) Deferrals or contributions to be paid monthly by participating employers or participants for investment by the board pursuant to this chapter. The moneys shall be deposited in the appropriate account, trust, group trust, or similar vehicle within the Public Employees' Deferred Compensation Fund, and invested in accordance with the fund option or fund selected by the participants.

(2) Deferrals or contributions paid by a contracting agency shall be paid through an electronic funds transfer method prescribed by the board. This payment requirement is effective upon declaration by the board.

(3) A contracting agency that is unable, for good cause, to comply with paragraph (2), may apply to the board for a waiver that allows the agency to pay in an alternate manner as prescribed by the board, but not by credit card payment.

(d) Disbursements shall be paid from the appropriate account, trust, group trust, or similar vehicle within the Public Employees' Deferred Compensation Fund, in accordance with the provisions of this chapter, the documents and instruments governing the tax-preferred retirement savings program, and current federal law pertaining to tax-preferred savings programs.

(e) The board shall offer a savings account equivalent program among those deferred compensation accounts made payable to participants.

(f) Net earnings on the Public Employees' Deferred Compensation Fund shall be credited to the appropriate account, trust, group trust, or similar vehicle. Participant accounts shall be individually posted to reflect net asset value for each fund in which the participant invests.

(g) The board has the exclusive control of the administration and investment of the Public Employees' Deferred Compensation Fund.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 502; by Stats. 2009, Ch. 118; and by Stats. 2010, ch. 639.)

§ 21678. Expenditures

The board, if authorized by another statute, may make expenditures from the asset management and services account in the Public Employees' Deferred Compensation Fund to conduct studies of other retirement-related benefits for the participants in this system, expend moneys to start up new retirement-related benefit programs for participants, to fund positions, or compensate employees.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379.)

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§ 21679. Duties of Officers and Employees

The officers and employees of this system shall discharge their duties with respect to the tax-preferred retirement savings program solely in the interest of the participants in the following manner:

(a) For the exclusive purpose of providing tax-preferred retirement savings to participants and defraying reasonable expenses of administering the program.

(b) In the selection of investment options with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(c) By diversifying the investment options available to participants so as to minimize the risk of large losses and by using reasonable diligence to accurately inform all employees and participants as to all options.

(d) In accordance with the documents and instruments governing the programs insofar as those documents and instruments are consistent with this chapter.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1996, Ch. 502; and by Stats. 2010, ch. 639.)

§ 21680. Prohibited Transactions of Officers and Employees

Except as otherwise provided by law, the officers and employees of this system shall not engage in a transaction with regard to a tax-preferred retirement savings program if they know or should know that the transaction constitutes, directly or indirectly, any of the following:

(a) The sale, exchange, or leasing of any property from the program to a participant for less than adequate consideration, or from a participant to the program for more than adequate consideration.

(b) The lending of money or other extension of credit from the program to a participant without the receipt of adequate security and a reasonable rate of interest, or from a participant to the program with the provision of excessive security or an unreasonably high rate of interest.

(c) The furnishing of goods, services, or facilities from the program to a participant for less than adequate consideration, or from a participant to the program for more than adequate consideration.

(d) The transfer to, or use by or for the benefit of, a participant of any assets of the program for less than adequate consideration.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639.)

§ 21681. Prohibited Financial Interests of Officers and Employees

The officers and employees of this system shall not do any of the following:

(a) Deal with the assets of the program in their own interest or for their own account.

(b) In their individual or in any other capacity, act in any transaction involving the program on behalf of a party, or represent a party, whose interests are adverse to the interests of the program or the interests of the participants.

(c) Receive any consideration for their personal account, or any gift, from any party dealing with the program in connection with a transaction involving the assets of the program.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639.)

§ 21682. Participation by Officers and Employees

This chapter shall not be construed to prohibit officers and employees of this system from participating in a tax-preferred retirement savings program, on the same terms as other state employees or participants.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639.)

§ 21683. Investment Manager or Recordkeeper

This system may require an investment manager or recordkeeper under contract with, or appointed by, this system be subject to the duties set forth in Section 21679.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2010, ch. 639.)

§ 21684. Liability of Officers and Employees

Nothing in this article is intended to lessen the scope of personal liability of the officers and employees of this system as it pertains to acts or conduct of a criminal nature or acts or conduct constituting gross negligence.

(Added by Stats. 1990, Ch. 1659; renumbered by Stats. 1995, Ch. 379.)

§ 21685. Definitions

Notwithstanding any other provision of this part, the following definitions govern the construction of this chapter:

(a) "Participating employer" means any California public agency, including, but not limited to, any office of the county superintendent of schools, school district, community college district, or public agency defined by Section 20056 that has elected to contract for a tax-preferred retirement savings program for any or all of its employees.

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(b) "Employer" means any city, county, city and county, district, school district, community college district, county superintendent of schools, and other public authority or body within this state.

(c) "Participant" means any person enrolled in a tax-preferred retirement savings program established by this chapter.

(Added by Stats. 1996, Ch. 502; amended by Stats. 2010, ch. 639.)

Chapter 17. Complementary Health Premium Program for Retired Members

SECTION

§ 21690. "Complementary Health Premium"
§ 21691. Continuation of Coverage
§ 21692. Administrative Costs

§ 21690. "Complementary Health Premium"

As used in this part, "complementary health premium" means the additional premium paid by retired members whose health insurance premiums are paid under Section 21264 and whose allowances fall below the premium required to continue the health benefit plan coverage provided by their employers.

(Added by Stats. 2005, Ch. 328.)

Note: Former Section 21690 was added by Stats. 1991, Ch. 499; effective 10/7/91; renumbered by Stats. 1995, Ch. 379; repealed by Stats. 2004, Ch. 69, effective 6/24/04.

§ 21691. Continuation of Coverage

(a) Any retired member whose health insurance premium is paid under Section 21264 and whose allowance is not sufficient to pay his or her contributions for the health benefit plan coverage provided by his or her employer may continue that coverage by paying to the board the balance of the premium owed plus administrative costs, as determined by the board.

(b) The retired member shall pay the complementary health premium by remitting to the board quarterly payments in advance.

(c) The board has no duty to identify, locate, or notify any retired member who may be eligible for programs established by this chapter.

(d) All moneys received pursuant to this chapter shall be deposited in the Public Employees' Contingency Reserve Fund established by Section 22910.

(Added by Stats. 2005, Ch. 328.)

Note: Former Section 21691 was added by Stats. 1991, Ch. 499; effective 10/7/91; renumbered by Stats. 1995, Ch. 379; repealed by Stats. 2004, Ch. 69, effective 6/24/04.

§ 21692. Administrative Costs

(a) The board may charge each participating retired member who elects to pay the complementary health premium a one-time setup charge and a monthly maintenance charge, in amounts sufficient to ensure the ongoing support of the program.

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(b) All development and administrative costs of the program shall be paid by the participating retired members.

(Added by Stats. 2005, Ch. 328.)

Note: Former Section 21692 was added by Stats. 1991, Ch. 499; effective 10/7/91; renumbered by Stats. 1995, Ch. 379; repealed by Stats. 2004, Ch. 69, effective 6/24/04.

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Chapter 18. California Public Employees' Retirement System School Employees Alternative System

SECTION
§ 21700. Establishment of Plan
§ 21701. Plan Design and Implementation
§ 21702. Plan Fund
§ 21703. Development and Administration Costs

§ 21700. Establishment of Plan

The board may establish a plan for classified school employees who are excluded from membership in this system pursuant to Section 20305. The plan shall be made available under terms and conditions established by the board, except to the extent participation is subject to any memorandums of understanding between the employer and the employees.

(Added by Stats. 1997, Ch. 951.)

§ 21701. Plan Design and Implementation

The plan shall be designed and implemented to comply with pertinent provisions of the federal Internal Revenue Code and federal Internal Revenue Service regulations and guidelines.

(Added by Stats. 1997, Ch. 951.)

§ 21702. Plan Fund

Notwithstanding any other provision of law, the board may establish a plan fund, and retain a bank or trust company to serve as repository of the fund. The board may also retain a bank or trust company to serve as a custodian for safekeeping, recordkeeping, delivery, securities valuation, investment performance reporting, or other services in connection with investment of the fund. The board has exclusive control of the administration and investment of the fund. Notwithstanding Section 13340, all moneys in the plan fund are continuously appropriated, without regard to fiscal years, for the purposes of this chapter.

(Added by Stats. 1997, Ch. 951.)

§ 21703. Development and Administration Costs

All development and administration costs of the alternative retirement plan authorized by this chapter shall be paid by school employers and members, as determined by the board.

(Added by Stats. 1997, Ch. 951; amended by Stats. 2000, Ch. 882.)

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PART 3.4. INTERNAL REVENUE CODE COMPLIANCE AND REPLACEMENT BENEFIT PLAN

SECTION

§ 21750. Purpose
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§ 21752.5. Determination of Compensation Subject to Annual Compensation Limit
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§ 21764. Legislative Intent
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§ 21750. Purpose

The purpose of this part is to ensure the federal tax-exempt status of the Public Employees' Retirement System, and any other retirement system administered by the board, 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 actuarial value of the benefits that would have been received but for the limitations imposed by Section 415 of Title 26 of the United States Code.

To achieve this purpose, this part incorporates certain pension payment limitations and elects the "grandfather" option in Section 415(b)(10) of Title 26 of the United States Code. Also, this part contains certain payment provisions and replacement benefits

(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2010, Ch. 639.)

§ 21751. Definitions

The definitions in Part 3 (commencing with Section 20000) shall apply to this part. The following definition shall also govern the interpretation of this part:

"Participating agency" means any public agency that meets the criteria for becoming a contracting agency in this system pursuant to Chapter 5 (commencing with Section 20460) of Part 3, but that has not elected to participate in this system as a contracting agency, and that elects to contract with the board to participate in the replacement benefit plan administered pursuant to this part by the board.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 785; and by Stats. 2001, Ch. 793.)

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§ 21752. Payment Limitations of Specified Retirement Benefits

(a) (1) In accordance with Section 21756, a member's annual retirement benefits, adjusted to the actuarial equivalent of a straight-life annuity if payable in a form other than a straight-life annuity or a qualified joint and survivor annuity as provided under Section 21460, and determined without regard to any employee contributions or rollover contributions, as defined in Sections 402(a)(5), 403(a)(4), and 408(d)(3) of Title 26 of the United States Code, otherwise payable to the member under Part 3 (commencing with Section 20000) and under any other defined benefit plan maintained by the employer that is subject to Section 415 of Title 26 of the United States Code, shall not exceed, in the aggregate, the dollar limit applicable pursuant to Section 415(b)(1) (A) of Title 26 of the United States Code, as appropriately modified by Section 415(b)(2)(F) and (G) of Title 26 of the United States Code.

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

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

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

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

(Added by Stats. 1990, Ch. 798, effective 9/13/90; amended by Stats. 1992, Ch. 374; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 678 and Ch. 1074, effective 9/30/98; by Stats. 2006, Ch. 538; and by Stats. 2011, Ch. 47.)

§ 21752.5. Determination of Compensation Subject to Annual Compensation Limit

The amount of compensation that is taken into account in computing benefits payable to any person who first becomes a member of this system on or after July 1, 1996, shall not exceed the limitations in Section 401(a) (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

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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; amended and renumbered by Stats. 1996, Ch. 502.)

§ 21753. Cost-of-Living Adjustments

Notwithstanding any other provision of law, and except as provided in Section 21310.5, the retirement allowance of a member shall be increased to reflect cost-of-living adjustments to the limits contained in Section 415 of Title 26 of the United States Code as provided in Section 415(d) of that code, provided that the member' s allowance determined without regard to Section 415 equals or exceeds the applicable limit as indexed. Nothing in this section is intended to, nor shall be construed to, entitle a retired member to a cost-of-living adjustment to his or her allowance in excess of that provided pursuant to Part 3 (commencing with Section 20000).

(Added by Stats. 1992, Ch. 374; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2009, Ch. 130.)

§ 21754. Limitation on Aggregation of Benefits

In addition to the benefit limitations specified in this part, if a member participates in other defined benefit plans maintained by the employer, to the extent the aggregation of benefits payable under those plans and pursuant to Part 3 (commencing with Section 20000) are subject to and exceed the limits prescribed by Section 415 of Title 26 of the United States Code, the benefits payable pursuant to the other defined benefit plans maintained by the employer shall be reduced, but not below zero, to the extent necessary to satisfy Section 415, before adjustments to the benefits provided under Part 3 are made. Nothing in this section shall limit a member's entitlement to replacement benefits as provided by Section 21757.

(Added by Stats. 1992, Ch. 374; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 474.)

§ 21755. Changes in Benefit Structure

Internal Revenue Service Procedure 92-42 shall apply to all changes in benefit structure adopted by any employer regardless of whether the change was adopted before August 3, 1992, or on or after August 3, 1992. Internal Revenue Service Notice 89-45 shall not be applied to any changes in benefit structure adopted by any employer.

(Added by Stats. 1992, Ch. 374; repealed and added by Stats. 1995, Ch. 379.)

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§ 21756. Notice of Limitations

(a) Notwithstanding any other provision of law, the retirement rights conferred by this part upon any person who for the first time becomes a member on or after January 1, 1990, shall be subject to, and that person shall not have any retirement right or benefit that exceeds, and no retirement right or benefit under this part shall accrue to or vest in that person, that exceeds, the limitations in the Internal Revenue Code upon public retirement systems.

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

(Added by Stats. 1989, Ch. 1305, effective 10/1/89; amended and renumbered by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379.)

§ 21757. Replacement Benefit Plan

(a) If the retirement benefits of any member or his or her survivors or beneficiaries payable pursuant to Part 3 (commencing with Section 20000) would be limited by Section 415 of Title 26 of the United States Code, the board shall adjust the payment of those benefits, including, but not limited to, cost-of-living adjustments, cost-of-living banks, temporary annuities, survivor continuance benefits, or any combinations thereof, in order to maximize benefits within the limits of Section 415.

(b) The board shall establish a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by Section 415 and cannot be fully maximized pursuant to Part 3 (commencing with Section 20000). The benefits provided by that plan may consist of deferred compensation, cash payments, health benefits, or supplemental disability benefits, as shall be determined by the board to give effect to the purpose of this part. The factors the board may take into consideration in making its determination shall include, but not be limited to, the following: legal constraints, administrative feasibility, and cost effectiveness. The board may periodically modify the replacement benefits plan and may add or eliminate any type of replacement benefits, as necessary, to carry out the purpose of this part. The administrative costs of the replacement benefits plan shall be satisfied out of funds credited to the accounts of the participant members, and shall not be paid from the retirement fund or the retirement trust fund of a participating agency.

(c) The application of Section 415 to benefits provided under Part 3 (commencing with Section 20000) and this part shall not be taken into account for purposes of determining employers' or employees' contribution rates, until replacement benefits are implemented pursuant to Section 21758.

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(d) Under no circumstances shall the replacement benefit plan result in increased benefit costs to an employer, member, or annuitant.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 1998, Ch. 678 and Ch. 1074, effective 9/30/98; by Stats. 2000, Ch. 1002; and by Stats. 2001, Ch. 793.)

§ 21758. Replacement Benefit Custodial Fund

(a) There is in the State Treasury a Replacement Benefit Custodial Fund, that shall be administered exclusively by the board, that is separate and apart from the retirement fund or any other retirement trust fund and that is, notwithstanding Section 13340, continuously appropriated, without regard to fiscal years, to the board to carry out the purposes of this part.

(b) The earnings on the assets of the Replacement Benefit Custodial Fund are continuously appropriated to the board for expenditure solely to pay the costs of administering this part.

(c) The Replacement Benefit Custodial Fund shall also consist of employer contributions, in amounts equivalent to the benefits that are not paid from either the retirement fund or the retirement trust fund of a participating agency to annuitants because of the application of the payment limitations under Section 415 of Title 26 of the United States Code; and administrative costs assessed to and paid by members enrolled in the replacement benefit plan.

(d) The board shall determine the amount of employer contributions required for deposit into the Replacement Benefit Custodial Fund, based on all of the following:

(1) The amount of benefits that will not be payable from the retirement fund, or the retirement trust fund of a participating agency, because of the payment limitations in Section 415.

(2) The amount by which an employer's contributions to the retirement fund, or the retirement fund of a participating agency shall be reduced, for annuitants whose benefit payments are limited by Section 415.

(e) The board shall establish within the Replacement Benefit Custodial Fund an individual account for each annuitant whose benefit payments are limited by Section 415. Employer contributions shall be credited to each account as of the date accrued and payable to the account of each annuitant as of the date on which the contribution is made. Replacement benefits shall be debited from each account as of the date paid to each annuitant.

(f) If all sections of this part, except Section 21763 and this section, become inoperative, pursuant to Section 21763, and all acts required and authorized by Section 21763 have been fully performed, any remaining balance in a member's individual account in the Replacement Benefit Custodial Fund shall revert to, and become part of, the trust fund of the retirement system from which the member retired.

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(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21759. Administration by Board

This part shall be administered by the board in conformity with its powers and duties set forth in Part 3 (commencing with Section 20000). The board shall, to the extent it determines feasible, follow the procedures set forth in Article 7 (commencing with Section 20220) of Chapter 2 of Part 3. The power conferred upon the board by Sections 20134 and 20160 shall encompass any retirement system under this part, including participating agencies that contract for board administration of replacement benefits and employers that are required to enroll members in replacement benefits pursuant to Section 21757.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379.)

§ 21760. Regulations

The board, in addition to its general rulemaking authority under Section 20121, may adopt regulations that implement this part. Those regulations shall be exempt from review by the Office of Administrative Law. However, the board shall transmit those regulations to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; amended by Stats. 1995, Ch. 938; amended and renumbered by Stats. 1996, Ch. 906.)

§ 21761. Election for Administration—All Employers

The state, school employers, as defined in Section 20063, and all contracting agencies under this system shall be deemed to have elected to contract with the board for administration of the replacement benefit plan pursuant to this part. A participating agency may contract with the board for administration to participate in the replacement benefit plan administered by the board, as follows:

(a) A participating agency shall deposit its replacement benefit contributions into the Replacement Benefit Custodial Fund, as the board directs.

(b) At the request of the board, the participating agency shall furnish any data concerning its members the board requires to direct the payment of replacement benefit contributions.

(c) A public agency that intends to contract under this section and become a participating agency shall do so only pursuant to the procedure set forth in Sections 20469 to 20471, inclusive.

(d) The ordinance or resolution by which a public agency approves a contract under this section shall be filed with the board. A participating agency under this

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section shall not maintain any other replacement benefit plan, except upon the express approval of the board.

(e) A contract entered into under this section may be amended pursuant to the procedure set forth in Section 20472.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21762. Nonconforming Provisions Become Inoperative

If the Internal Revenue Service determines that any provision of Part 3 (commencing with Section 20000) or this part cannot be given effect without placing a retirement system administered under this part or Part 3 out of conformity with Section 415 of Title 26 of the United States 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 Part 3 as of the effective date of the determination. The board shall notify the Secretary of State whenever a nonconforming provision becomes inoperative under this section.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379.)

§ 21763. Invalidation of Sections by Amendment or Judicial Decision

(a) If Section 415 of Title 26 of the United States Code is amended to exclude public retirement systems, or if the application of Section 415 to public retirement systems is invalidated by the final decision of an appellate court of proper jurisdiction, all sections of this part, except this section and Section 21758, shall become inoperative as of the effective date of that amendment or decision. The board shall immediately notify the Secretary of State whenever any provision of this part becomes inoperative pursuant to this section.

(b) Whenever all sections of this part, except this section and Section 21758, become inoperative pursuant to this section, and to the extent not prohibited by the Internal Revenue Code, the board shall do all of the following:

(1) Remove the pension limitations imposed by Section 415 for prospective payments to annuitants.

(2) Eliminate the replacement benefits, and reimburse annuitants for that portion of their pension funds that had been credited to the Replacement Benefit Custodial Fund but not yet been disbursed, with accrued interest.

(3) Take any and all other actions it deems necessary or feasible.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; repealed and added by Stats. 1995, Ch. 379.)

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§ 21764. Legislative Intent

It is the sole intent of the Legislature, in enacting this part, 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 Public Employees' Retirement System, to elect the "grandfather" option in Section 415 (b)(10) of Title 26 of the United States Code, and to provide, to the extent deemed reasonable, commensurate replacement benefits to affected members of this system and of other participating agencies that elect to contract with this system for the administration of a replacement benefits plan.

The Legislature finds and declares that all costs of local public agencies and local public retirement systems of complying with Section 415 of Title 26 of the United States Code are a federal mandate within the meaning of Section 6 of Article XIIIB 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, in enacting this part, to not impose upon local public agencies that are contracting agencies with this system or upon other local public agencies that elect to contract with this system for the administration of a replacement benefits plan, state-reimbursable, state-mandated local program benefit costs within the meaning of Section 6 of Article XIIIB of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of this title.

If either the Commission on State Mandates or a court determines that this part 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 this title or from any other state fund.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; renumbered by Stats. 1995, Ch. 379; amended by Stats. 2001, Ch. 793.)

§ 21765. Reservation of Power to Legislature

The Legislature reserves the power and right to amend this part, as needed to effect its purposes. This part shall be controlling over any memorandum of understanding reached between employers and employees pursuant to Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(Added by Stats. 1990, Ch. 798, effective 9/13/90; renumbered by Stats. 1995, Ch. 379.)

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ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

§ 22000. Legislative Policy

It is the policy of the Legislature that the protection afforded employees in positions covered by a retirement system on the date an agreement under this part is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(Added by Stats. 1955, Ch. 10; repealed and added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22001. Continuation of Liabilities and Obligations

All liabilities and obligations created by Chapter 46 of the Statutes of 1950, Third Extraordinary Session, and amendments thereto or by Chapter 10 of the Statutes of 1955, or by any agreement or modification entered into between the State and the federal agency, as herein defined, under the authority of said statutes, are continued in full force and effect the same as if said statutes had not been repealed.

(Added by Stats. 1955, Ch. 10; repealed and added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22002. Construction

Unless the context otherwise requires the definitions and general provisions set forth in this chapter govern the constructions of this part.

(Added by Stats. 1955, Ch. 10; repealed and added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22003. References to Federal Law or Regulation

Whenever reference is made in this part to any federal law or regulation or part thereof, the reference applies to all amendments thereto now or hereafter made.

(Added by Stats. 1955, Ch. 10; repealed and added by Stats. 1955, Ch. 1441, effective 6/29/55.)

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§ 22004. "Board"

"Board" shall have the following meanings: Until July 1, 1955, "board" means the Director of Finance. On and after July 1, 1955, "board" means the Board of Administration of the Public Employees' Retirement System.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1967, Ch. 84.)

§ 22005. "Federal Agency"

"Federal agency" means the Department of Health and Human Services or the Secretary of Health and Human Services, or the predecessor or successor in function to that department or officer.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1981, Ch. 609.)

§ 22006. "Agreement"

"Agreement" means the agreement or any modification thereof now, heretofore or hereafter executed by the board with the federal agency pursuant to this part or Chapter 46 of the Statutes of 1950 (Third Extraordinary Session), Chapter 1569, Statutes of 1951, or Chapter 10 of Statutes of 1955 and Section 218 of Title II of the Social Security Act.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22007. "Eligible Employee"

"Eligible employee" means an employee whose services may under the provisions of Section 218 of Title II of the Social Security Act and this part be brought under the terms of the agreement, but not including any employee whose services are excluded from the agreement by a public agency under paragraph (3) or (5) of Section 218(c) of the Social Security Act.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22008. "Eligible Retirement System Employee"

"Eligible retirement system employee" for the purposes of any referendum with respect to any retirement system has the meaning given the term "eligible employee" in Section 218(d)(3) of the Social Security Act.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22009. "Public Agency"—State or Political Subdivision

"Public agency" means the state, any city, county, city and county, district, municipal or public corporation or any instrumentality thereof, or boards and committees established under Chapter 1 (commencing with Section 58601) or 2

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(commencing with Section 59501) of Part 1 of Division 21 of the Food and Agricultural Code, Chapter 754 of the Statutes of 1933, as amended, or Chapter 307 of the Statutes of 1935, as amended, the employees of which constitute one or more coverage groups or retirement system coverage groups.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 1993; and by Stats. 1983, Ch. 142.)

§ 22009.01. "Public Agency"—Nonprofit Corporation

"Public agency" also includes any nonprofit corporation formed for the purpose of operating a coliseum or sports arena for the general recreational purposes of a city or county.

(Added by Stats. 1973, Ch. 967.)

§ 22009.02. "Public Agency"—County Superintendent of Schools

"Public agency" also includes a county superintendent of schools whose office the board has determined to be fiscally independent. As to such office, the county board of education is the legislative or governing body for purposes of this part.

(Added by Stats. 1979, Ch. 120, effective 6/15/79.)

§ 22009.03. "Public Agency"—School Districts and Other Entities

"Public agency" also includes a school district, a county superintendent of schools, and a regional occupational center or program established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, with respect to employees eligible for membership in the State Teachers' Retirement Plan.

(Added by Stats. 2005, Ch. 328.)

Note: Former Section 22009.03 was added by Stats. 1989, Ch. 1006; amended by Stats. 1991, Ch. 150, effective 7/23/91; by Stats. 1992, Ch. 673; by Stats. 1996, Ch. 318; by Stats. 1998, Ch. 965; and by Stats. 2003, Ch. 62 and Ch. 519; repealed by its own provisions 1/1/05.

§ 22009.1. "Retirement System"

"Retirement system" includes:

(a) A pension, annuity, retirement or similar fund or system established by a public agency and covering only positions of that agency.

(b) The Public Employees' Retirement System with respect only to employees of the state and employees of the University of California in positions covered by that system.

(c) The Public Employees' Retirement System with respect to employees of all school districts in positions covered under each contract entered into by a county superintendent of schools and the system.

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(d) The State Teachers' Retirement System with respect to all employees in positions subject to coverage under the Defined Benefit Program of the State Teachers' Retirement Plan except employees of a public agency having any employees in positions covered by that system who are also in positions covered by a local retirement system for the retirement of teachers, or for membership in which public school teachers are eligible, operated by a city, city and county, county or other public agency or combination of public agencies of the state.

(e) The Legislators' Retirement System with respect to all employees in positions covered by that system.

(f) The Judges' Retirement System with respect to all employees in positions covered by that system.

(g) The University of California Retirement Plan only with respect to all employees in positions covered by that system.

(h) The San Francisco Employees' Retirement System with respect to all employees in positions covered by that system.

(i) Any other retirement system with respect only to employees of any two or more of the public agencies having employees in positions covered by that system, as designated by the board and with regard to which the board authorizes conduct of a referendum.

(j) Any retirement system with respect only to employees of a hospital that is an integral part of a city incorporated between January 15, 1898, and July 15, 1898, in positions covered by the system, as designated by the board on request of the city.

(k) Except as otherwise provided in subdivisions (b) to (j), inclusive, any retirement system with respect to employees of each of the public agencies having employees in positions covered by the system.

(l) The State Teachers' Retirement System with respect to all employees of each public agency, as defined by Section 22009.03, in positions covered by the State Teachers' Retirement Plan.

(m) Each division or part of a retirement system, as defined in subdivisions (a), (b), (c), (e), (g), (h), (i), (j), (k), and (l) of this section, that is divided pursuant to this chapter into two parts:

(1) The part composed of the positions of members of the system who desire coverage under the federal system.

(2) The part composed of the positions of members of the system who do not desire coverage under the federal system.

(Added by Stats. 1957, Ch. 1993; amended by Stats. 1959, Ch. 2066 and Ch. 2067; by Stats. 1961, Ch. 808; by Stats. 1967, Ch. 84; by Stats. 1971, Ch. 1300, effective 10/29/71; by Stats. 1992, Ch. 673, effective 1/1/93; by Stats. 1996, Ch. 318, effective 7/29/96; by Stats. 1998, Ch. 965; by Stats. 2003, Ch. 62 and Ch. 519; by Stats. 2005, Ch. 328; and by Stats. 2006, Ch. 655.)

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§ 22010. "Coverage Group"

"Coverage group" has the meaning given that term by Section 218(b)(5) of Title II of the Social Security Act and federal regulations adopted pursuant thereto.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22011. "Retirement System Coverage Group"

"Retirement system coverage group," with respect to any retirement system, means all employees designated as a coverage group in Section 218(d)(4) of the Social Security Act for the purposes of Section 218(c) of the Social Security Act only. The services of employees in any retirement system coverage group that are included in an agreement shall then become for all purposes of the agreement services performed as members of the coverage group to which they otherwise belong.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22012. "Federal System"

"Federal system" means the insurance system established under Title II of the Social Security Act.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1965, Ch. 662; and by Stats. 1967, Ch. 1353.)

§ 22013. "Policeman"—Generally

"Policeman" as used in this part includes members of the California Highway Patrol, state safety members of the Public Employees' Retirement System employed by the Department of Justice, sheriffs, undersheriffs, deputy sheriffs, marshals and deputy marshals, and any other employee of a public agency other than the state or University of California in a position designated as a policeman's position by the board for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1959, Ch. 2066; by Stats. 1970, Ch. 708; by Stats. 1972, Ch. 1377; and by Stats. 1998, Ch. 678.)

§ 22013.1. "Policeman"—Department of Fish and Game

"Policeman" as used in this part also includes persons employed in the Department of Fish and Game in connection with its warden service, whose principal duties consist of active law enforcement service, including immediate supervision by persons employed to perform the duties now performed under the titles of chief and assistant chief of warden service, and captain of patrol boats for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1970, Ch. 1626; amended by Stats. 1998, Ch. 678.)

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§ 22013.2. "Policeman"—California State Police Division

"Policeman" as used in this part also includes members of the Department of the California Highway Patrol who are designated as peace officers under subdivision (a) of Section 2250.1 of the Vehicle Code and whose principal duties consist of active law enforcement.

(Added by Stats. 1971, Ch. 1657; amended by Stats. 1996, Ch. 305.)

§ 22013.3. "Policeman"—Positions in Section 20403

"Policeman" as used in this part also includes persons employed in positions set forth in Section 20403 for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1972, Ch. 1035; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.4. "Policeman"—Positions in Section 31470.6

"Policeman" as used in this part also includes persons designated by Section 31470.6 as persons whose principal duties consist of "active law enforcement" for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1972, Ch. 633; amended by Stats. 1998, Ch. 678.)

§ 22013.5. "Policeman"—State University or College

"Policeman" as used in this part also includes persons employed as members of a state university or state college police department who are peace officers and whose principal duties consist of law enforcement.

(Added by Stats. 1973, Ch. 703.)

§ 22013.6. "Policeman"—Positions in Sections 20438 and 31469.4

"Policeman" as used in this part also includes persons employed in positions set forth in Sections 20438 and 31469.4 for the purposes of Section 218(d)(5)(A) of the Social Security Act.

This section shall be operative only in counties which elect to terminate the social security coverage of county probation officers and juvenile hall employees in that county and elect to include such officers and employees within the safety membership retirement category.

(Added by Stats. 1976, Ch. 1479; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.7. Positions in Sections 20414, 20423.5, and 20441

"Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Sections 20414, 20423.3, 20423.5, and 20441 for the

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purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1982, Ch. 37, effective 2/17/82; by Stats. 1997, Ch. 951; by Stats. 1998, Ch. 678; by Stats. 2003, Ch. 519; by Stats. 2004, Ch. 231; and by Stats. 2009, Ch. 79.)

§ 22013.75. "Policeman"—Positions in Section 20407

"Policeman," as used in this part, also includes persons employed in positions identified in Section 20407 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1988, Ch. 938; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.76. "Policeman"—Positions in Section 20408

"Policeman," as used in this part, also includes persons employed in positions identified in Section 20408 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1989, Ch. 962; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.77. "Policeman"—Positions in Section 20391

"Policeman," as used in this part, also includes persons designated as peace officers by subdivision (e) of Section 20391 for the purposes of Section 218(d)(5)(A) of Title 42 of the United States Code.

(Added by Stats. 1999, Ch. 785.)

§ 22013.78. Positions in Sections 20401.5, 20423.6, 31469.2, 45311, and 53217.6

"Policeman" as used in this part also includes persons currently employed in classifications listed in Sections 20401.5, 20423.6, 31469.2, 45311, and 53217.6 for purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 2002, Ch. 1152; amended by Stats. 2003, Ch. 519.)

§ 22013.8. "Policeman"—Classifications in Section 20405

"Policeman" as used in this part also includes persons employed in classifications listed in Sections 20405 and 20405.1, for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1977, Ch. 1071, effective 9/26/77; amended by Stats. 1978, Ch. 786; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1986, Ch. 922; by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 88, effective 6/30/98, and Ch. 678.)

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§ 22013.82. Repealed

(Repealed by Stats. 2001, Ch. 365, effective 9/27/01.)

§ 22013.85. "Policeman"—Classifications in Section 20411

"Policeman" as used in this part also includes persons employed in the classification listing in Section 20411 for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1985, Ch. 236, effective 7/25/85; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.9. "Policeman"—Positions in Section 20406

"Policeman" as used in this part also includes persons employed in positions set forth in Section 20406 for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1977, Ch. 1069; repealed by Stats. 1978, Ch. 786; added by Stats. 1981, Ch. 238, effective 7/20/81; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.95. "Policeman" or "Fireman"—Positions in Section 20393

"Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Section 20393 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.955. "Policeman"—Positions in Section 20397

"Policeman" as used in this part also includes persons employed in the classifications set forth in Section 20397 for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1990, Ch. 1399; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22013.96. "Policeman" or "Fireman"—Positions in Section 20395

"Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Section 20395, as amended in 1984 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

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§ 22013.97. "Policeman" or "Fireman"—Positions in Section 20398

"Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Section 20398 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1984, Ch. 280, effective 7/3/84; amended by Stats. 1997, Ch. 951; by Stats. 1998, Ch. 678; and by Stats. 2004, Ch.183.)

§ 22013.98. "Fireman"—Long Beach Marine Safety Employees

For purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)):

(a) "Fireman," as used in this part, also includes any employee of the City of Long Beach Fire Department employed in the Marine Safety Division to perform lifeguard services and whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled at beaches, lakes, flood control systems, rivers, or other bodies of open water. "Fireman" also includes employees hired to perform duties under the titles of "Superintendent of Marine Safety," "Marine Safety Officer," "Marine Safety Captain," "Marine Safety Sergeant/Boat Operators," or any equivalent successor class, of which the principal duties are customarily performed by police peace officers and include the maintenance of peace and order and the apprehension of law violators, and whose other duties are customarily performed by firemen, such as resuscitation work involving the use of special equipment.

(b) "Fireman" as used in this part, excludes persons employed on a seasonal basis or persons who perform clerical, maintenance activities, and others whose primary duties do not include active life guarding or life saving services as described in subdivision (a), even if those persons are occasionally called upon to perform life guarding or life saving services.

(Added by Stats. 2001, Ch. 793.)

§ 22013.10. "Policeman"—Positions in Section 20415

"Policeman" as used in this part, also includes persons employed in positions set forth in Section 20415 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1982, Ch. 1220, effective 9/22/82; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

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§ 22013.11. "Policeman" or "Fireman"—Positions in Sections 20409 and 20410

"Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Sections 20409 and 20410 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(Added by Stats. 1983, 1st Ex. Sess., Ch. 12, effective 3/2/83; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

§ 22014. "Fireman"—Various Classifications

"Fireman" as used in this part means any employee of the Division of Forestry, Department of Conservation, employed to perform duties now performed under the following titles: State Forester; all classes of rangers; all classes of deputy state foresters; all classes of fire prevention and law enforcement officers; all classes of foresters; all classes of forestry foreman; all classes of forestry trainees; all classes of forestry equipment and civil engineers; forestry superintendent, conservation camps; forest firetruck driver; forestry fireman; forest firefighter; equipment maintenance foreman or forestry equipment operator; or employed in any other position the principal duties of which consist of active fire suppression, and any employee of a public agency other than the state or University of California in a position designated as a fireman's position by the board for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1969, Ch. 1558, operative 12/1/69; and by Stats. 1998, Ch. 678.)

§ 22014.1. "Fireman"—County Forestry Division or Fire Department

"Fireman" as used in this part also means any officer or employee of a county having a population in excess of 5,000,000 who is employed by the forestry division of the county fire department and whose principal duties consist of active fire suppression for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1972, Ch. 633; amended by Stats. 1998, Ch. 678.)

§ 22014.5. "Fireman"—Campus Firefighters and Positions in Section 20412

"Fireman" as used in this part includes persons employed as "campus firefighter" and other persons employed in positions described in Section 20412 for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1976, Ch. 1448; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 678.)

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§ 22015. "Member"

"Member," with respect to any retirement system, for the purposes provided in Section 218(d)(6)(E) of the Social Security Act, shall include in addition to a member of the system any nonmember in a position in which he may elect membership.

(Added by Stats. 1959, Ch. 777; amended by Stats. 1965, Ch. 662, operative 10/1/65.)

§ 22016. County Employees; Superintendent of Schools

For the purposes of this part, persons employed by a county superintendent of schools and whose salaries are paid from the county school service fund are county employees, except that in any county where it has been determined by the board that the office of the county superintendent of schools is a separate public agency, in which case such persons are employees of the county superintendent of schools. The cost of any elections and the employer's contribution for such employees under this part are proper charges against the county school service fund and such contribution shall be requisitioned and paid to the state as provided in Section 22550.5 of this code.

This section does not constitute a change in, but is declaratory of, preexisting law and all action heretofore taken by a county board of supervisors for coverage under the federal system of employees of the county superintendent of schools whose salaries are paid from the county school service fund, in accordance with state and federal law, is hereby ratified, confirmed and validated.

(Added by Stats. 1961, Ch. 1428; amended by Stats. 1967, Ch. 1353; and by Stats. 1979, Ch. 120, effective 6/15/79.)

§ 22017. Compensation—Leave of Absence for Sickness

Notwithstanding any other provision of law, the state and any public agency may establish a separate object of appropriation or a subobject of appropriation within salaries and employee benefits for the payment of compensation to employees who are on approved leaves of absence on account of sickness. The amount of compensation to be paid to employees under this object or subobject shall be that established by statute, salary ordinance or statement, except that no compensation shall be paid when an employee is on authorized leave without pay even though such leave may be on account of sickness.

(Added by Stats. 1979, Ch. 491.)

§ 22018. Medicare Coverage; Credit for Social Security Coverage—School Related Services

(a) It is the intent of the Legislature that, to the extent possible, members of the State Teachers' Retirement Plan earn credit towards Medicare coverage.

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(b) In accomplishing the goal specified in subdivision (a), the board shall make available to school districts, community college districts, and county superintendents of schools information concerning the procedure for earning credit for social security coverage for school related service not credited under the Teachers' Retirement Law.

(Added by Stats. 1985, Ch. 174; amended by Stats. 2003, Ch. 62 and Ch. 519.)

ARTICLE 2. DESIGNATION OF SPECIAL GROUPS

§ 22100. Civilian Employees of National Guard

(a) For all purposes under this part, the following group of employees shall constitute a separate coverage group: civilian employees of National Guard units of the state who are employed pursuant to Section 90 of the National Defense Act of June 3, 1916 (32 U.S.C. Sec. 42), and paid from funds allotted to those units by the Department of Defense.

(b) The Adjutant General may enter into an agreement with the board pursuant to Section 22203 for the purpose of obtaining coverage under the federal system for these employees.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 2006, Ch. 538.)

§ 22125. Separate Coverage Group—Specified Classes of Employees

For all purposes of this part relating to Section 218(c) of the Social Security Act, employees in any class or classes of positions covered by a retirement system excluded from the agreement pursuant to paragraph (3) or (5) of Section 218(c) of the Social Security Act at the time it is made applicable to such retirement system and to which the agreement does not already apply shall constitute a separate retirement system coverage group.

For the purposes of the referendum among eligible retirement system employees in such retirement system coverage group as required by Article 2 of Chapter 2 of this part and Section 218(d) of the Social Security Act, each such class shall constitute a separate retirement system.

(Added and renumbered by Stats. 1957, Ch. 1993.)

§ 22126. Separate Retirement System for Policemen or Firemen

Notwithstanding Section 22009.1, each retirement system which covers positions of policemen or firemen, or both, and other positions shall constitute a separate retirement system with respect to the positions of policemen or firemen, or both, covered by the system. Policemen and firemen shall vote separately from the other members of the system.

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If the federal system is extended to any fireman's or policeman's position it shall be extended to them as a unit without any division of their separate retirement systems.

(Added by Stats. 1957, Ch. 2302; amended by Stats. 1959, Ch. 1741; by Stats. 1961, Ch. 1033; and by Stats. 1967, Ch. 1353.)

ARTICLE 2.5. DIVISION OF RETIREMENT SYSTEMS

§ 22150. Authority for Division of Retirement System at Public Agency Request

Unless otherwise provided in this article, the board shall authorize a division of a retirement system upon the request of any public agency having employees in positions covered by the system or upon authorization of the Legislature. An election among members of the system shall not be required. A retirement system as defined in subdivisions (d) and (f) of Section 22009.1 shall be divided pursuant to this article only if the division is otherwise authorized by the Legislature. The board shall designate the person to conduct the division, as defined in subdivision (m) of Section 22009.1, of a retirement system.

For purposes of this section and all coverage procedures under this part subsequent to division of the retirement system defined in subdivision (g) of Section 22009.1 the University of California shall be deemed to be a public agency.

(Added and renumbered by Stats. 1955, Ch. 1441; amended and renumbered by Stats. 1957, Ch. 1993; amended by Stats. 1959, Ch. 777; by Stats. 1963, Ch. 663; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 2005, Ch. 328.)

§ 22151. Division Referendum

The division shall be conducted in accordance with Section 218(d)(7) of the Social Security Act and applicable federal and board rules and regulations by the person or body designated under Article 2, Chapter 2 of this part to conduct a referendum in the system to be divided.

(Added by Stats. 1957, Ch. 1993; amended by Stats. 1959, Ch. 777, effective 6/31/59.)

§ 22151.1. Request and Notice of Division

A county superintendent of schools whose employees are deemed county employees may request a division and give notice of a division in anticipation of a finding that his office is a separate public agency. Upon such request, the county superintendent's office shall be deemed to be a public agency for purposes of this article.

(Added by Stats. 1980, Ch. 316, effective 7/3/80.)

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§ 22152. Certification of Conditions of Division

Upon receiving evidence satisfactory to him with respect to any division of a retirement system that the conditions specified in Section 218(d)(7) of the Social Security Act have been met, the Governor or any other state official now or hereafter authorized by federal law, shall so certify to the federal agency.

(Added by Stats. 1959, Ch. 777, effective 6/3/59.)

§ 22152.7. Division of Retirement System of City

Notwithstanding the provisions contained in a charter of any chartered city, the legislative body of such a city may by ordinance provide that employees may either add or combine old age, survivors, and disability insurance with any existing pension system. The board subsequent to the passage of such an ordinance may, pursuant to this part, divide the retirement system of such city for coverage of members of such system under the federal system upon terms and conditions as the board and legislative body may determine.

(Added by Stats. 1965, Ch. 1515.)

§ 22155. Transfer of Position of Member

Whenever, on the request of the governing body of a public agency, a retirement system has been divided pursuant to this article, the board, on the request of the governing body, shall execute in conformity with Section 218 of the Social Security Act and applicable federal regulations a modification to the agreement providing for transfer to the system as defined in paragraph (1) of subdivision (m) of Section 22009.1 created by the division, the position of any member included in the system, as defined in paragraph (2) of subdivision (m) of Section 22009.1, who requests a transfer pursuant to Section 218(d)(6)(F) of the Social Security Act and board rules.

(Added by Stats. 1959, Ch. 752; amended by Stats. 1961, Ch. 808, effective 6/12/61; and by Stats. 2005, Ch. 328.)

§ 22156. Division of State Teachers' Retirement Plan—Medicare Coverage

(a) A division of the State Teachers' Retirement Plan is hereby authorized by the Legislature to provide Medicare coverage for employees of a public agency, as defined in Section 22009.03, upon the request of the public agency.

(b) The division authorized by subdivision (a) shall be conducted pursuant to this article.

(c) A member of the State Teachers' Retirement Plan on whose behalf a request is made pursuant to subdivision (a) may elect to be covered by Medicare, pursuant to Section 218 of the federal Social Security Act (42 U.S.C. Sec. 418), and applicable federal regulations if all of the following apply:

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(1) The member was employed in a position covered by the plan on March 31, 1986.

(2) The member has not since been mandated into Medicare coverage due to the enactment of Public Law 99-272.

(3) The member is in a position covered or the member is eligible to elect to be covered by the retirement system on the date of the division.

(d) The public agency shall immediately make an application pursuant to Chapter 2 (commencing with Section 22200) of this part for Medicare coverage for those members who have elected to receive Medicare coverage.

(e) The effective date of the coverage may be retroactive, but not earlier than the last day of the sixth calendar year preceding the year in which the agreement or modifications, as the case may be, is submitted to the Commissioner of Social Security.

(Added by Stats. 2005, Ch. 328.)

Note: Former Section 22156 was added by Stats. 1989, Ch. 1006; amended by Stats. 1992, Ch. 673; by Stats. 1996, Ch. 318; by Stats. 1998, Ch. 965; and by Stats. 2003, Ch. 62 and Ch. 519; repealed by its own provisions 1/1/05.

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Chapter 2. Agreements for Coverage

Article 1

Applications for Coverage

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Article 2

Retirement System Referendums

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ARTICLE 1. APPLICATIONS FOR COVERAGE

§ 22200. Administration and Maintenance of Agreement

The board is hereby authorized on behalf of the state to administer and to maintain in full force and effect the agreement entered into between the state and the Federal Security Administrator on March 9, 1951, and all modifications thereof heretofore made.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1999, Ch. 83.)

§ 22201. Agreement for Coverage of Public Agency

The board shall, upon application by any public agency except the state, in accordance with the provisions of this part execute on behalf of the state an agreement with the federal agency for the coverage of employees of such public agency under the federal system in conformity with the provisions of Section 218 of the Social Security Act and applicable federal regulations.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1967, Ch. 1353.)

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§ 22201.7. Exclusion of Part-Time Positions

The board shall upon the request of the legislative or governing body of any public agency, other than a school district, made after affirmative, secret vote of a majority of the eligible employees of the public agency in the class to be excluded, execute a modification to the agreement in conformity with federal law and regulations to exclude from coverage in any coverage group of such agency service in any class or classes of part-time positions.

(Added by Stats. 1973, Ch. 110, effective 6/20/73.)

§ 22202. Application Deemed to be Made

With respect to employees in the coverage group defined in subdivision (a) of Section 22100, the application shall be deemed to be made by a public agency if made by the Adjutant General. With respect to employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, the application shall be deemed to be made by a public agency if made by the Teachers' Retirement Board. With respect to employees in positions covered by the retirement system set forth in subdivision (g) of Section 22009.1, the application shall be deemed to be made by a public agency if made by the Regents of the University of California. With respect to employees in the coverage group defined in subdivision (l) of Section 22009.1, the application shall be deemed to be made by a public agency if made by the governing body of the public agency, as defined in Section 22009.03.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 1993, effective 7/10/57; by Stats. 1989, Ch. 1006; by Stats. 1992, Ch. 673; and by Stats. 2005, Ch. 328.)

§ 22203. Agreement for Administration of Federal System

Notwithstanding Section 22201, before the board shall execute on behalf of the state an agreement with the federal agency as provided in this chapter, the public agency and the board shall enter into a written agreement, that shall include provisions not inconsistent with this part that the board deems necessary in the administration of the federal system as it affects the state and the public agency and its employees.

For the purposes of this section, the state shall not be deemed to be a public agency, but nevertheless an agreement entered into pursuant to this part by the board and the Teachers' Retirement Board or the Adjutant General or the Regents of the University of California or the governing body of a public agency, as defined in Section 22009.03, shall be deemed to be entered into by the board and a public agency.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1967, Ch. 1353; by Stats. 1989, Ch. 1006; by Stats. 1992, Ch. 673; and by Stats. 2005, Ch. 328.)

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§ 22204. Agreement to Include Each Coverage Group

The agreement between the state and the federal agency shall include each coverage group or retirement system coverage group as to which formal request for the inclusion is made by the legislative or governing body of the employing public agency pursuant to this chapter, prior to the effective date of the agreement. For the purposes of this section, the state shall not be deemed to be a public agency, but nevertheless any formal request for the inclusion made by the Teachers' Retirement Board upon authorization by the Legislature or by the Regents of the University of California, or by the Adjutant General, shall be deemed to be made by the governing body of an employing public agency.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1989, Ch. 1006; and by Stats. 1992, Ch. 673.)

§ 22205. Application to Include Employees Not Covered by Retirement System

The legislative or governing body of every public agency having employees who are in positions not covered by any retirement system may, upon the affirmative vote of a majority of the eligible employees of such public agency or of any coverage group thereof, make formal application to the board for inclusion of such eligible employees in the said agreement.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22206. Application to Include Employees Ineligible for Retirement System

The legislative or governing body of every public agency having employees in positions covered by a retirement system who are ineligible to become members of such retirement system may upon the affirmative vote of a majority of the eligible employees of any coverage group of such public agency of which the employees who are ineligible to be members of such retirement system are a part, make formal application to the board for inclusion of the eligible employees of such coverage group in the said agreement; provided, that the terms of the agreement do not already apply to said positions.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1967, Ch. 1353.)

§ 22207. Application to Include Eligible Employees—Existing Agreement

The legislative or governing body of every public agency having employees in positions covered by a retirement system who are ineligible to become members of such retirement system may in the case of any coverage group to which said agreement already applies, and upon the affirmative vote of a majority of the eligible employees in any coverage group of such public agency of which the

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employees who are ineligible to be members of such retirement system are a part, make formal application to the board for inclusion of the eligible employees of such coverage group in the said agreement; provided, that the terms of the agreement do not already apply to said positions; and provided, that on the effective date specified in said agreement relating to the coverage of such employees under the federal system, such employees are ineligible to be members of any retirement system.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1967, Ch. 1353.)

§ 22207.5. Vote of Majority of Eligible Employees Required

Whenever an affirmative vote of a majority of the eligible employees in any coverage group is required as a condition of an application under this article, such requirement shall be deemed satisfied by the signatures of a majority of such eligible employees on a written petition to the legislative or governing body requesting such application. For the purposes of such requirement an employee shall be an eligible employee in each coverage group of a public agency in which he is employed and which is included in a separate application of the public agency.

(Added by Stats. 1957, Ch. 465.)

§ 22207.6. Employees of Agency Which Ceased to Exist

Notwithstanding any other provision of this part, the board may execute a modification of the agreement, in conformity with the provisions of Section 218 of the Social Security Act and applicable federal regulations adopted pursuant thereto, to include the services of employees of a public agency which has ceased to exist if, with respect to all such services, all taxes required of an employer and an employee under Sections 3101 and 3111 of the Internal Revenue Code of 1954 were reported and paid by the public agency to the Internal Revenue Service in the mistaken belief that such reporting and payment established coverage for such employees and a refund of such taxes has not been requested or made.

(Added by Stats. 1968, Ch. 257.)

§ 22208. Application to Include Employees—Referendum

With respect to each retirement system coverage group, the legislative or governing body of every public agency having employees in positions covered by a retirement system, may, upon the affirmative vote of a majority of eligible retirement system employees of the retirement system coverage group at a referendum conducted in accordance with Article 2 (commencing with Section 22300) of this chapter and the rules and regulations promulgated by the board

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pursuant to this part, make formal application to the board for the inclusion of the employees in each retirement system coverage group in the agreement.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 1993, effective 7/10/57; by Stats. 1989, Ch. 1006; by Stats. 1996, Ch. 318, effective 7/29/96; by Stats. 1998, Ch. 965; and by Stats. 2005, Ch. 328.)

§ 22209. Exclusion of Positions from Agreement

At the request of a public agency, or as otherwise permitted by the board, any class or classes of positions covered by a retirement system which may be excluded from coverage under the federal system pursuant to paragraph (3) or (5) of Section 218(c) of the Social Security Act, and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that such exclusion shall not include any services to which Section 218(c)(3)(B) of the Social Security Act is applicable.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1971, Ch. 1300, effective 10/29/71; and by Stats. 1999, Ch. 83.)

§ 22212. Employees Covered by Judges' Retirement System

Notwithstanding any other provisions of this part, the board shall execute a modification of the agreement in conformity with the provisions of Section 218 of the Social Security Act and applicable federal regulations adopted pursuant thereto, to include the services of employees in positions covered by the Judges' Retirement System, when a majority of the eligible retirement system employees in positions covered by such system at a referendum conducted by the board pursuant to Article 2 of this chapter and Section 218(d) of the Social Security Act have voted in favor of inclusion in the federal system.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22215. Validation of Inclusion

All acts and proceedings heretofore taken under this part by or on behalf of the state or any other public agency for inclusion of its employees in the federal system and all modifications to the agreement executed by the board pursuant to such acts and proceedings are hereby confirmed, validated and declared legally effective. This provision shall operate to supply such legislative authorization as may be necessary to validate such acts, proceedings, and modifications based thereon as the Legislature could have provided for inclusion of such employees in the federal system.

(Added by Stats. 1965, Ch. 662; repealed by Stats. 1973, Ch. 107; added by Stats. 1973, Ch. 107, effective 6/20/73; repealed and added by Stats. 1978, Ch. 1180, effective 9/26/78.)

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§ 22216. Repealed

(Repealed by Stats. 2003, Ch. 519.)

ARTICLE 2. RETIREMENT SYSTEM REFERENDUMS

§ 22300. Authorization

Unless otherwise provided in this article the board shall authorize a referendum among the eligible employees of any retirement system coverage group upon the request of the legislative or governing body of any public agency having employees in such retirement system coverage group.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1967, Ch. 1353.)

§ 22301. Request by Officials

In the case of employees in positions covered by a retirement system as set forth in subdivision (i) of Section 22009.1, such request may be made by such officials as the board deems necessary to carry out the provisions of this part as they relate to such system.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 1993; and by Stats. 1965, Ch. 662, operative 10/1/65.)

§ 22302. Teachers' Retirement Board to Conduct Referendum

In the case of employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, the Teachers' Retirement Board shall conduct the referendum; if the referendum is authorized by the Legislature.

In the case of employees in positions covered by the retirement system set forth in subdivision (g) of Section 22009.1 the board shall authorize the referendum upon the request of the Regents of the University of California and the regents shall conduct the referendum.

In the case of employees in positions covered by the retirement system set forth in subdivision (l) of Section 22009.1, the board shall authorize the referendum upon the request of the governing body of a public agency, as defined by Section 22009.03.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 1993; by Stats. 1989, Ch. 1006; by Stats. 1996, Ch. 318; by Stats. 1998, Ch. 965; and by Stats. 2005, Ch. 328.)

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§ 22303. Board to Conduct Referendum for Judges' Retirement System

In the case of employees in positions covered by the retirement systems set forth in subdivision (f) of Section 22009.1, the board shall conduct each such referendum; provided, that each such referendum is authorized by the Legislature.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 1993; and by Stats. 1971, Ch. 1300, effective 10/29/71.)

§ 22304. Referendum Generally

The referendum shall be conducted, and the Governor or any other state agency or state official now or hereafter authorized by federal law shall designate an agency or individual to supervise its conduct, in accordance with the requirements of Section 218(d) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the State or by a political subdivision or agency thereof should be excluded from or included under an agreement under this chapter. The notice of referendum required by Section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient to inform the employees of the rights and benefits which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject if their services are included under an agreement under this part. Such statement shall include a general explanation of the modification, if any, of the existing retirement plan that may result therefrom. It is not intended that any modification of any existing retirement plan must result, nor that a plan of maintaining full benefits of the local system together with full benefits of the federal system shall be precluded.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22305. Certification of Referendum

Upon receiving evidence satisfactory to him that with respect to any referendum the conditions specified in Section 218(d)(3) of the Social Security Act have been met, the Governor or any other state official now or hereafter authorized by federal law shall so certify to the federal agency.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22307. Voting

If for any reason it is determined that any eligible retirement system employee was not given an opportunity to vote in the referendum conducted with respect to the retirement system of which he was a member at the time of the referendum, or that an employee who was permitted to vote in such referendum was not an

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eligible retirement system employee at that time, such determination shall not invalidate the results of such referendum if a majority of the eligible retirement system employees under such retirement system voted in such referendum in favor of inclusion under the federal system.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22308. Applicability of Article

This article does not apply to a retirement system composed of the positions of members of a divided system who desire coverage under the federal system as defined in subdivision (m) of Section 22009.1 and wherever in this part the conduct of a referendum is made a condition, the condition shall be fully satisfied by compliance with Article 2.5 (commencing with Section 22150) of Chapter 1 as to that retirement system.

(Added by Stats. 1959, Ch. 777; amended by Stats. 1961, Ch. 808; by Stats. 1984, Ch. 193; and by Stats. 2005, Ch. 328.)

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ARTICLE 1. GENERAL ADMINISTRATION PROVISIONS

§ 22500. Rules and Regulations

The board shall promulgate rules and regulations to carry into effect the provisions of this part in conformity with Section 218 of Title II of the Social Security Act and federal regulations adopted pursuant thereto, including, but not limited to, the conditions, method and procedure to be followed in the conduct of the referendums provided for in Article 2 of Chapter 2 of this part.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22501. Designation of Other Agencies

The board, with the approval of the Department of General Services, may designate other state agencies to perform work, furnish services, materials, or equipment, or otherwise assist in the administration of this part in accordance with this code relating to interagency services and the payment therefor now or hereafter made.

The proportionate share of amounts charged to the board by such agencies pursuant to such designation by the board, and, notwithstanding Section 11044, charges for all legal services rendered by the office of the Attorney General to

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the board pursuant to this part, shall be assessed against each public agency under the agreement, in accordance with the provisions of Section 22551.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1965, Ch. 371; and by Stats. 1984, Ch. 193.)

§ 22502. Exception from Approval Requirements

Agreements as defined in Section 22006, and all applications and agreements and contracts and any amendments thereto between the board and the Adjutant General, the Teachers' Retirement Board, the Regents of the University of California, and any public agency, except the state, executed by the board pursuant to this part are hereby excepted from the provisions of Section 13370, and of any other statutory provision that would otherwise require the approval of any of those agreements and contracts and any amendments thereto by any other state officer or agency.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 2003, Ch. 62 and Ch. 519.)

§ 22503. Delegation of Power

The board may delegate to the executive officer authority to perform any act within the power of the board itself to perform under this part. The executive officer may delegate to his or her subordinates any act or duty unless the board, by motion or resolution recorded in the minutes, has required the executive officer to act personally.

(Added by Stats. 1959, Ch. 777; amended by Stats. 1986, Ch. 637.)

ARTICLE 2. ADMINISTRATIVE COST ASSESSMENT AND FINANCIAL OBLIGATIONS

§ 22550. Public Agency

For the purposes of this article, the term "public agency" includes the Board of Regents of the University of California.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22550.5. School District

A school district whose employees in positions covered under a retirement system, as defined in subdivision (c) of Section 22009.1, are included in the agreement, shall be subject to all obligations and liabilities imposed on a public agency under this article.

(Added by Stats. 1959, Ch. 2066 and Ch. 2067; repealed by Stats. 1961, Ch. 84; amended by Stats. 1968, Ch. 257; and by Stats. 1987, Ch. 728.)

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§ 22551. Charges or Assessments—Administration of Federal System

The board may charge or assess each public agency and each public agency shall pay and reimburse the state at such times and in such amounts as the board may charge or assess, which amounts may differ from public agency to public agency, the public agency's proportionate share of any and all costs incurred by the state in the administration of the federal system as it affects the public agency and its employees. Such charges or assessments shall be determined by the board in a manner approved by the Department of Finance and may be charged or assessed either in arrears or on the basis of anticipated costs not to exceed one year in advance. There shall be added to the amount of each such assessment, delinquent 90 days after a notice thereof was mailed by the board, a penalty of 10 percent of the amount thereof. Such penalties when collected shall be paid into the Treasury and credited as revenue to the General Fund.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1965, Ch. 371; by Stats. 1967, Ch. 1353; and by Stats. 1974, Ch. 1221.)

§ 22552. Charges or Assessments—Services Relating to Division

The board may charge or assess each public agency and each public agency shall pay and reimburse the state at such times and in such amounts as the board may determine, the approximate cost to the state of any and all work and services relating to a division under Article 2.5 (commencing with Section 22150) of Chapter 1 or the referendum provided by Article 2 (commencing with Section 22300) of Chapter 2 and requested by the agency. The charges or assessments shall be determined by the board in a manner approved by the Department of Finance.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1965, Ch. 371 and Ch. 662; by Stats. 1974, Ch. 1221; and by Stats. 1984, Ch. 193.)

§ 22553. Liability for Contributions

Each public agency included in the agreement between the board and the federal agency pursuant to the provisions of this part shall be liable for the contributions required of an employer under the provisions of Section 3111 of the Internal Revenue Code of 1954 and the portion required to be withheld from the salaries and wages of the employees as required under the provisions of Section 3101 of the Internal Revenue Code of 1954.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22554. Withholding

Every public agency included in the agreement between the board and the federal agency may withhold from wages and salaries paid by them to officers and employees covered by the said agreement that portion required to be withheld from the salaries and wages of employees under the provisions of Section 3101 of

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the Internal Revenue Code of 1954, including contributions due on wages paid for services previously performed after the effective date of coverage where retroactive coverage has been requested by the public agency.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22555. Failure to Pay

Every public agency included in the agreement shall upon written request of the board pay to the board any and all sums of money that the State may be obligated to pay or forfeit to the Federal Government, by reason of any failure on the part of any such public agency for any cause or reason to pay any contributions, interest, penalties, or any other amounts required by the agreement and federal regulations adopted pursuant thereto at the time and in such amounts as required by said agreement or said federal regulations. The board, in lieu of collection from the public agency, may offset any such sum which does not exceed one dollar ($1) in amount against excesses in the Old Age and Survivors Insurance Revolving Fund which are subject to transfer between the fund and the appropriation available for support of the board as provided in Section 22603.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 465.)

§ 22556. Advances

Any public agency on whose behalf the board has made any advances of money as provided in Section 22601 shall reimburse the State in the amount of any such advances, together with interest at the rate of 6 percent per annum from the time of such advance; provided, that there shall be no interest charge in any instance in which the amount of interest, if charged, would be less than one dollar ($1). Such interest when collected shall be paid into the Treasury and credited as revenue to the General Fund.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1957, Ch. 465.)

§ 22557. Enforcement of Payment

No statute of this State shall limit the time within which the board may enforce the payment of any amount payable to this State by a public agency pursuant to the provisions of this part by civil action or any other remedy.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22558. Audits

The board or the state officer or agency designated to assist in the administration of this part, may audit the books and records of any public agency having employees in positions covered by the agreement. Such audits shall be

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restricted to the extent necessary to make a determination of the public agency's liability for employer and employee contributions, penalties and interest required under the terms of the agreement.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22559. Reports

Every public agency included in the agreement between the board and the federal agency shall submit all wage, contribution, and other reports required to fulfill the obligations of the state under the federal system. In the event of a failure or refusal to submit such reports, the board or the state officer or agency designated to assist in the administration of this part may audit the books and records of such public agency to the extent necessary to determine the public agency's liability for employer and employee contributions, penalties and interest required under the terms of the agreement. The cost of such audits as determined by the board in a manner approved by the Department of General Services shall be assessed against such public agency and each public agency so assessed shall reimburse the state for such cost.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1967, Ch. 1353.)

§ 22560. Administrative Services

The board may charge or assess each public agency as defined in Section 22009.03 and each public agency shall pay and reimburse the state at the times and in the amounts as the board may determine, the approximate cost to the state, of any and all work, services, equipment, and other administrative costs relating to a division under Article 2.5 (commencing with Section 22150) of Chapter 1 of this part or the referendum provided by Article 2 (commencing with Section 22300) of Chapter 2 of this part and requested by the agency. The charges may differ from public agency to public agency.

(Added by Stats. 1989, Ch. 1006; amended by Stats. 1992, Ch. 673, effective 1/1/93; by Stats. 1996, Ch. 318; and by Stats. 2005, Ch. 328.)

ARTICLE 3. O.A.S.I. REVOLVING FUND

§ 22600. Continuation and Appropriation

The Old Age and Survivors' Insurance Revolving Fund is continued in existence. Notwithstanding Section 13340, all money in the revolving fund is appropriated without regard to fiscal years to the board to carry out the provisions of this part.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55; amended by Stats. 1991, Ch. 892, effective 10/14/91.)

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§ 22601. Purpose

The Old Age and Survivors' Insurance Revolving Fund may be used by the board for the following purposes and for any other purposes necessary to carry out the provisions of this part:

(1) To reimburse any appropriation available for the support of the board or of any state office or agency designated by the board to assist in the administration of the provisions of this part.

(2) To advance on behalf of any public agency or agencies any part or all of the contributions required to be paid by them pursuant to Sections 22553, 22554 and 22555 of this code.

(3) To advance on behalf of any public agency or agencies any sums of money the State may be obligated to pay or forfeit to the Federal Government from and after October 30, 1950, by reason of any failure of any such public agency or agencies for any cause or reason to pay the contributions, penalties or interest required by the agreement and federal regulations adopted pursuant thereto at such times and in such amounts as required by the agreement and the said federal regulations.

(4) To make refunds to any public agency or agencies of contributions, penalties, interest, reimbursements, or other amounts received from any such public agency or agencies as overpayments or paid by them in error.

(5) To make any and all payments which the State may be required to make to the Federal Government pursuant to the agreement and federal regulations adopted pursuant thereto.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

§ 22602. Deposits

With the exception of penalties and interest as provided by Sections 22551 and 22556, any and all moneys received by the board from public agencies under the provisions of this part may be deposited in such revolving fund.

(Added by Stats. 1955, Ch.1441, effective 6/29/55.)

§ 22603. Offsets

Deficiencies or excesses occurring in the Old Age and Survivors' Insurance Revolving Fund by reason of differences of a fraction of a cent in contributions or other amounts paid by a public agency under the provisions of this part shall be offset proportionately against the charges or assessments for administrative costs provided by Section 22551. Such offsets shall be applied annually by transfer between the said revolving fund and the appropriation available for the support of the board and upon request of the board the State Controller shall make such transfers.

(Added by Stats. 1955, Ch. 1441, effective 6/29/55.)

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ARTICLE 1. GENERAL PROVISIONS

§ 22750. Title

This part may be cited as the Public Employees' Medical and Hospital Care Act. As used in any contract or statute, the term "Meyers-Geddes State Employees' Medical and Hospital Care Act" shall be construed to refer to and mean the Public Employees' Medical and Hospital Care Act.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22751 was added by Stats. 1961. Ch. 1236; amended by Stats. 1978, Ch. 1180, effective 9/26/78.

§ 22751. Purpose

It is the purpose of this part to do all of the following:

(a) Promote increased economy and efficiency in state service.

(b) Enable the state to attract and retain qualified employees by providing health benefit plans similar to those commonly provided in private industry.

(c) Recognize and protect the state's investment in each permanent employee by promoting and preserving good health among state employees.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22752 was added by Stats. 1961, Ch. 1236.

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§ 22753. Precedence over MOU

The provisions of this part shall be controlling over any memorandum of understanding reached pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, except as otherwise provided by this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22756 was added by Stats. 1982, Ch. 72, effective 3/1/82.

§ 22755. Effect of Part

The provisions of this part shall become operative with respect to employees and annuitants of the University of California upon filing with the board a resolution adopted by the Regents of the University of California electing to be subject to the provisions of this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22753 was added by Stats. 1961, Ch. 1236; amended by Stats. 1965, Ch. 1179; by Stats. 1967, Ch. 1455; by Stats. 1970, Ch. 356; by Stats. 1971, Ch. 1165, operative 4/1/72; by Stats. 1977, Ch. 330; by Stats. 1978, Ch. 902; by Stats. 1979, Ch. 403; by Stats. 1980, Ch. 481; by Stats. 1983, Ch. 829; by Stats. 1984, Ch. 676, effective 8/18/84; by Stats. 1985, Ch. 176, effective 7/8/85; by Ch. 182 and Ch. 1067, effective 9/27/85; by Stats. 1986, Ch. 199, effective 6/27/86, Ch. 1077 and Ch. 1280; by Stats. 1987, Ch. 79, effective 6/30/87; by Stats. 1988, Ch. 233; by Stats. 1992, Ch. 751; and by Stats. 1994, Ch. 636.

ARTICLE 2. DEFINITIONS

§ 22760. "Annuitant"

"Annuitant" means:

(a) A person, other than a National Guard member defined in Section 20380.5, who has retired within 120 days of separation from employment and who receives a retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(b) A surviving family member receiving an allowance in place of an annuitant who has retired as provided in subdivision (a), or as the survivor of a deceased employee under Section 21541, 21546, 21547, or 21547.7, or similar provisions of any other state retirement system.

(c) A person who has retired within 120 days of separation from employment with a contracting agency as defined in Section 22768 or, if applicable, consistent with the provisions of subdivision (b) of Section 22893, and who receives a retirement allowance from the retirement system provided by that employer, or a surviving family member who receives the retirement allowance in place of the deceased.

(d) A judge who receives the benefits provided by subdivision (e) of Section 75522.

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(e) A person who was a state member for 30 years or more and who, at the time of retirement, was a local member employed by a contracting agency.

(f) A Member of the Legislature or an elective officer of the state whose office is provided by the California Constitution, who has at least eight years of credited service, and who meets the following conditions:

(1) Permanently separates from state service on or after January 1, 1988, and not more than 10 years before or 10 years after his or her minimum age for service retirement, or is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2.

(2) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(g) An exempt employee who meets all of the following conditions:

(1) Has at least 10 years of credited state service that includes at least 2 years of credited service while an exempt employee.

(2) Permanently separates from state service on or after January 1, 1988, and not more than 10 years before or 10 years after his or her minimum age for service retirement.

(3) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(h) A person receiving a survivor allowance pursuant to Article 3 (commencing with Section 21570) of Chapter 14 of Part 3 provided that he or she was eligible to enroll in a health benefit plan on the date of the member's death, on whose account the survivor allowance is payable.

(i) (1) A family member of a deceased retired member of the State Teachers' Retirement Plan, if the deceased member meets the following conditions:

(A) Retired within 120 days of separation from employment.

(B) Retired before the member's school employer elected to contract for health benefit coverage under this part.

(C) Prior to his or her death, received a retirement allowance that did not provide for a survivor allowance to family members.

(2) The family member shall elect coverage as an annuitant within one calendar year from the date that the deceased member's school employer elected to contract for health benefit coverage under this part.

(j) A person who reinstates benefits pursuant to subparagraph (ii) of paragraph (2) of subdivision (d) of Section 7522.57.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2007, Ch. 355; and by Stats. 2013, Ch. 525 and Ch. 526.)

Note 1: Former Section 22754 (relative to subdivisions (a), (b), (c), and (e)) was added by Stats. 1961, Ch. 1236; amended by Stats. 1965, Ch. 1179; by Stats. 1967, Ch. 1455; by Stats. 1970, Ch. 356; by Stats. 1971, Ch. 1165, operative 4/1/72; by Stats. 1977, Ch. 330; by Stats. 1978, Ch. 902; by Stats. 1979, Ch. 403; by Stats. 1980, Ch. 481; by

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Stats. 1983, Ch. 829; by Stats. 1984, Ch. 676, effective 8/18/84; by Stats. 1985, Ch. 176, effective 7/8/85; by Ch. 182 and Ch. 1067, effective 9/27/85; by Stats. 1986, Ch. 199, effective 6/27/86, Ch. 1077 and Ch. 1280; by Stats. 1987, Ch. 79, effective 6/30/87; by Stats. 1988, Ch. 233; by Stats. 1992, Ch. 751; by Stats. 1994, Ch. 636; by Stats. 1995, Ch. 768, effective 10/12/95; by Stats. 1997, Ch. 951; by Stats. 1998, Ch. 88, effective 6/30/98 and Ch. 1024, effective 9/30/98; by Stats. 1999, Ch. 272, effective 8/31/99; Ch. 446, effective 9/21/99; and Ch. 457, effective 9/21/99; by Stats. 2000, Ch. 1010; by Stats. 2001, Ch. 451; and by Stats. 2003, Ch. 62 and Ch. 519.

Note 2: Former Section 22754.16 (relative to subdivision (d)) was added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94.

Note 3: Former Section 22810 (relative to subdivision (h)) was added by Stats. 1961, Ch. 1236; amended by Stats. 1963, Ch. 365; by Stats. 1965, Ch. 1474 and Ch. 1971; by Stats. 1967, Ch. 1455; by Stats. 1974, Ch. 374, effective 6/28/74, operative 7/1/74; by Stats. 1976, Ch. 718. effective 9/7/76; by Stats. 1983, Ch. 829; by Stats. 1988, Ch. 604; by Stats. 1997, Ch. 951; by Stats. 2000, Ch. 904; by Stats. 2002, Ch. 898; and by Stats. 2003, Ch. 62.

Note 4: Former Section 22816.7 (relative to subdivisions (f) and (g)) was added by Stats. 1987, Ch. 1381; amended by Stats. 1989, Ch. 1427, effective 10/2/89; and by Stats. 1990, Ch. 1659.

Note 5: Former Section 22878.3 (relative to subdivision (i)) was added by Stats. 2000, Ch. 874; and amended by Stats. 2001, Ch. 803.

§ 22762. "Board"

"Board" means the Board of Administration of the Public Employees' Retirement System.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See Note 1 to Section 22760 for history of former Section 22754.

§ 22764. "Carrier"

"Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner, a medical society or other medical group, a nonprofit membership corporation lawfully operating under Section 10270.5 of the Insurance Code, a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act (42 U.S.C. Sec. 201 et seq.) that is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See Note 1 to Section 22760 for history of former Section 22754.

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§ 22766. "Complementary Annuitant Premium"

"Complementary annuitant premium" means the additional amount to be paid by an annuitant whose allowance falls below the premium required to maintain enrollment in the chosen health benefit plan.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22754.4 was added by Stats. 1989, Ch. 548, effective 9/21/89.

§ 22768. "Contracting Agency"

"Contracting agency" means an entity that meets the eligibility criteria set forth in Section 22920 that has elected to be subject to this part pursuant to Section 22922.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 22770. "Domestic Partner"

"Domestic partner" means an adult in a domestic partnership, as defined in Section 22771, with an employee or annuitant of an employer subject to this part, who is eligible for enrollment pursuant to Section 22818.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22868 was added by Stats. 1999, Ch. 588.

§ 22771. "Domestic Partnership"

A "domestic partnership" means either of the following:

(a) Two people who meet all of the criteria set forth in Section 297 or 299.2 of the Family Code.

(b) Two people who meet all of the criteria of a domestic partnership, as defined by the governing board of a contracting agency, if the contracting agency adopted that definition prior to January 1, 2000.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 418.)

Note: Former Section 22869 was added by Stats. 1999, Ch. 588; and amended by Stats. 2003, Ch 764.

§ 22772. "Employee"

(a) "Employee" means:

(1) An officer or employee of the state or of any agency, department, authority, or instrumentality of the state, including the University of California.

(2) An employee who is employed by a contracting agency and participates in a publicly funded retirement system provided by the contracting agency, or an officer or official of a contracting agency.

(3) An annuitant receiving a retirement allowance pursuant to Section 21228 who is employed by a contracting agency.

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(4) A teaching associate, lecturer, coach, or interpreter employed by the California State University who is appointed to work in an academic year classification for at least six weighted teaching units for one semester, or for at least six weighted teaching units for two or more consecutive quarter terms. This paragraph does not apply to a state member employed by the California State University, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

(5) All employees in job classes specified in subdivision (a) of Section 14876.

(6) An individual not described in paragraphs (1) to (5), inclusive, who is both of the following:

(A) A "full-time employee" of the state or a contracting agency within the meaning of Section 4980H of Title 26 of the United States Code and applicable United States Treasury Department regulations and interpretive guidance.

(B) Designated in writing as an employee for purposes of this section by the state or the contracting agency, as applicable.

(b) Except as otherwise provided by this part, "employee" does not include any of the following:

(1) A person employed on an intermittent, irregular, or less than half-time basis, or an employee similarly situated.

(2) A National Guard member described in Section 20380.5.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2007, Ch. 355; by Stats. 2012, Ch. 833; and by Stats. 2013, Ch. 778.)

Note 1: See Note 1 to Section 22760 for history of former Section 22754.

Note 2: Former Section 22754.1 was added by Stats. 2000, Ch. 12.

Note 3: Former Section 22754.2 was added by Stats. 1977, Ch. 1233, effective 10/1/77.

§ 22773. "Employer"

"Employer" means the state or any contracting agency that is subject to this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See Note 1 to Section 22760 for history of former Section 22754.

§ 22774. "Exempt Employee"

"Exempt employee" means an employee exempt from civil service pursuant to subdivision (a), (c), (f), or (g) of Section 4 of Article VII of the California Constitution, or an exempt employee of the Attorney General or Legislative Counsel appointed pursuant to subdivision (m) of Section 4 of Article VII of the California Constitution.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22816.7 was added by Stats. 1987, Ch. 1381; amended by Stats.

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1989, Ch. 1427, effective 10/2/89; and by Stats. 1990, Ch. 1659.

§ 22775. "Family Member"

"Family member" means an employee's or annuitant's spouse or domestic partner and any child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to children.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 418; and by Stats. 2010, Ch. 639.)

Note 1: See Note 1 to Section 22760 for history of former Section 22754.

Note 2: Former Section 22871 was added by Stats. 1999, Ch. 588; and amended by Stats. 2000, Ch. 1002.

§ 22777. "Health Benefit Plan"

"Health benefit plan" means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See Note 1 to Section 22760 for history of former Section 22754.

§ 22778. "Medicare Health Benefit Plan"

"Medicare health benefit plan" means a health benefit plan that provides benefits in coordination with Medicare Parts A and B, including, but not limited to, a managed Medicare health benefit plan providing coverage through the Medicare+Choice program or a Medicare supplement health benefit plan that provides coverage in coordination with the traditional Medicare program.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 22779. "Out-of-State Employee"

"Out-of-state employee" means an employee permanently assigned to perform his or her duties outside of the state. An employee is permanently assigned out-of-state if the assignment is intended to exceed four months.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: Former Section 22860 was added by Stats. 1968, Ch. 1290; repealed by Stats. 1979, Ch. 436; and added by Stats. 1984, Ch. 1307.

Note 2: Former Section 22862.1 was added by Stats. 1990, Ch. 1319, effective 9/25/90; and amended by Stats. 1991, Ch. 749.

§ 22781. "Prefunding"

"Prefunding" means the making of periodic payments by an employer to partially or completely amortize the unfunded actuarial obligation of the employer for health benefits provided to annuitants and their family members.

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(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22881.1 was added by Stats. 1988, Ch. 331, effective 7/14/88.

§ 22783. "School Employer"

"School employer" means a contracting agency that is a school district, county board of education, personnel commission of a school district, a county superintendent of schools, or a community college district.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22878.1 was added by Stats. 2000, Ch. 874.

§ 22785. "Special District"

"Special district" means a nonprofit, self-governed public agency located within the state, comprised solely of public employees, and performing a governmental function.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See Note 1 to Section 22760 for history of former Section 22754.

§ 22787. "System"

"System" means the California Public Employees' Retirement System.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

ARTICLE 3. THE BOARD OF ADMINISTRATION

§ 22790. Reimbursement of Members

The provisions of this part shall be administered by the board. The members of the board shall receive no salary for performance of their duties and responsibilities under this part, but shall be reimbursed for actual and necessary expenses incurred in connection therewith.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22771 was added by Stats. 1961, Ch 1236.

§ 22792. Laws Applicable to Board

All laws governing the organization, procedures, and administrative duties and responsibilities of the board shall be applicable to the board in its administration of the provisions of this part, to the extent that they are not in conflict with or inconsistent with the provisions of this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22772 was added by Stats. 1961, Ch. 1236.

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§ 22793. Approval of Plans and Contracts

The board shall, in accordance with this part, approve health benefit plans, and may contract with carriers offering health benefit plans.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22774 was added by Stats. 1961, Ch. 1236; amended by Stats. 1970, Ch. 356; and by Stats. 1999, Ch. 785.

§ 22794. Powers

The board shall have all powers reasonably necessary to carry out the authority and responsibilities expressly granted or imposed upon it under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22773 was added by Stats. 1961, Ch. 1236.

§ 22795. Prohibited Activities

Irrespective of the provisions of Sections 1090 and 1091, a board member who is an officer of a life insurer may participate in all board activities in administering the provisions of this part, except that he or she may not vote on the question of whether a contract should be entered into or approval should be given concerning any health benefit plan in which the board member has a financial interest, as defined in the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22774 was added by Stats. 1961, Ch. 1236; amended by Stats. 1970, Ch. 356; and by Stats.1999, Ch. 785.

§ 22796. Rules and Regulations

(a) The board shall, pursuant to the Administrative Procedure Act, adopt all necessary rules and regulations to carry out the provisions of this part including, but not limited to, any of the following:

(1) Regulations establishing the following:

(A) The scope and content of a basic health benefit plan.

(B) Reasonable minimum standards for health benefit plans.

(C) The time, manner, method, and procedures for determining whether approval of a health benefit plan should be withdrawn.

(2) Regulations pertaining to any other matters that the board may be expressly authorized or required to provide for by rule or regulation by the provisions of this part.

(b) In adopting rules and regulations, the board shall be guided by the needs and welfare of individual employees, particular classes of employees, the state and contracting agencies, as well as prevailing practices in the field of medical and hospital care.

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(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22775 was added by Stats. 1961, Ch. 1236.

§ 22797. Audits—Employer Information

(a) The board or an authorized representative may perform audits of each employer and may, at a specified time and place, require the employer to provide information or make available for examination and copying books, papers, data, and records, including, but not limited to, personnel and payroll records, as deemed necessary by the board to determine compliance with the provisions of this part.

(b) Before initiating an audit, the board shall notify the subject of the audit of the estimated time required to complete the audit. The estimate shall be based upon various factors, including, but not limited to, the following:

(1) The number of employees.

(2) Employment classifications.

(3) Benefits.

(4) Contract provisions.

(5) Geographical location.

(6) Time required for audits of comparable entities.

(7) Additional time factors raised by the subject of the audit.

(c) If an audit requires an excess of the time estimated, the board may assess a reasonable charge upon the employer to recover additional costs incurred for the excess time to complete the audit. A contracting agency shall not be assessed for delays during the course of an audit that are reasonably outside of the agency's control.

(d) The information obtained from an employer shall remain confidential.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2011, Ch. 107.)

Note: Former Section 22780 was added by Stats. 2002, Ch. 898.

ARTICLE 4. ELIGIBILITY

§ 22800. Generally

(a) An employee or annuitant is eligible to enroll in an approved health benefit plan, in accordance with this part and the regulations of the board.

(b) Regulations may provide for the exclusion of employees on the basis of the nature, conditions, and type of their employment, including, but not limited to, short-term appointments, seasonal or intermittent employment, and employment of a like nature. However, no employee may be excluded solely on the basis of the hazardous nature of the employment.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22810 was added by Stats. 1961, Ch. 1236; amended by Stats. 1963,

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Ch. 365; by Stats. 1965, Ch. 1474 and Ch. 1971; by Stats. 1967, Ch. 1455; by Stats. 1974, Ch. 374, effective 6/28/74, operative 7/1/74; by Stats. 1976, Ch. 718, effective 9/7/76; by Stats. 1983, Ch. 829; by Stats. 1988, Ch. 604; by Stats. 1997, Ch. 951; by Stats. 2000, Ch. 904; by Stats. 2002, Ch. 898; and by Stats. 2003, Ch. 62.

§ 22802. Annuitant with Insufficient Allowance

(a) An annuitant whose retirement allowance is not sufficient to pay his or her required contribution for the health benefit plan in which he or she is enrolled may only remain enrolled if the annuitant pays to the board the balance of the contributions plus the related administrative costs, as determined by the board.

(b) (1) The annuitant shall pay the complementary annuitant premium by remitting to the board quarterly payments in advance, or by alternative monthly payment as determined by the board.

(2) The board may charge each annuitant who elects to pay the complementary annuitant premium an initial setup charge and a monthly maintenance charge, in amounts sufficient to ensure the ongoing support of the complementary annuitant premium program.

(3) If payments are not received by the 10th of the month for the following month, coverage shall be terminated and may not be resumed until the next open enrollment period.

(c) Upon receipt of a written application, the benefits provided by this section shall commence on the first day of the month following receipt of the application and the payment required by the board.

(d) The board has no duty to identify, locate, or notify any annuitant who may be eligible for the benefit provided by this section.

(e) Any complementary annuitant premium or any balance of unpaid health benefit plan premiums that accrues and remains unpaid at the time of the death of an annuitant shall be paid in accordance with the sequence prescribed in Section 21506.

(f) All moneys received pursuant to this section shall be deposited in the Public Employees' Contingency Reserve Fund in the account provided by subdivision (f) of Section 22910.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2014, Ch. 28, effective 6/20/2014.)

Note 1: Former Section 22810.1 was added by Stats. 1989, Ch. 548, effective 9/21/89.

Note 2: Former Section 22810.3 was added by Stats. 1992, Ch. 751; and amended by Stats. 1997, Ch. 951.

§ 22803. Out-of-State Employee

An out-of-state employee shall be eligible for enrollment, in accordance with reasonable rules as the board may prescribe, to receive the benefits provided by this part.

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(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22861 was added by Stats. 1968, Ch. 1290; amended by Stats. 1970, Ch. 1052; repealed by Stats. 1979, Ch. 436; added by Stats. 1984, Ch. 1307.

§ 22805. Full-Time Service Credit—CSU

An employee receiving full-time service credit pursuant to Section 20900 may continue enrollment in a health benefit plan.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22818 was added by Stats. 1976, Ch. 1115; amended by Stats. 1979, Ch. 120, effective 6/15/79; and by Stats. 1997, Ch. 951.

§ 22806. Permanent Intermittent Employee

(a) With respect to state officers and employees, a permanent intermittent employee who has an appointment of more than six months and works at least half-time shall be eligible to enroll in a health benefit plan within 60 calendar days after having been credited with a minimum of 480 paid hours within a designated six-month period. The designated six-month periods are January 1 to June 30, inclusive, and July 1 to December 31, inclusive, of each calendar year. To continue benefits, a permanent intermittent employee must be credited with a minimum of 480 paid hours in a designated six-month period or 960 paid hours in two consecutive periods.

(b) Permanent intermittent employees who are represented by State Bargaining Unit 6 may enroll in a health benefit plan within 60 calendar days following graduation from the academy of the Department of Corrections or the Department of the Youth Authority. To continue benefits, a permanent intermittent employee must be credited with a minimum number of hours, as provided in subdivision (a).

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22822 was added by Stats. 1984, Ch. 1320, effective 9/24/84; amended by Stats. 1985, Ch. 1340, effective 10/1/85; by Stats. 1998, Ch. 21, effective 4/14/98; and Ch. 820, effective 9/25/98.

§ 22807. Classification of Less Than Full-Time Employees

(a) Notwithstanding subdivision (b) of Section 22772, a contracting agency may, by resolution filed with the board, deem all permanent or regular employees, except members of the State Teachers' Retirement Plan, who have an appointment of six months or longer but are employed less than half-time, to be employees subject to this part.

(b) Notwithstanding subdivision (b) of Section 22772, a contracting agency with employees who are members of the State Teachers' Retirement Plan may, by resolution filed with the board, deem any of the following to be employees subject to this part:

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(1) Regular, permanent, probationary, or temporary employees or substitutes who have an appointment for at least a semester, for six months, or for half of the school year, but are employed less than half-time.

(2) Substitutes who have an appointment for 100 days or more in the school year.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22878.2 was added by Stats. 2000, Ch. 874; and amended by Stats. 2001, Ch. 803.

§ 22808. Leave of Absence

An employee enrolled in a health benefit plan under this part shall be entitled to have his or her coverage and the coverage of any family members continued for the duration of a leave of absence, upon his or her application and upon assuming payments of the contributions otherwise required of the employer, if any of the following apply:

(a) A leave of absence is granted to the employee without pay under the State Civil Service Act and the rules or regulations of the Department of Human Resources, or other comparable leave.

(b) The employee is laid off and has not yet obtained other employment, for a period of up to one year.

(c) The employee is employed by the California State University and is granted a leave of absence for more than half-time.

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

Note 1: Former Section 22816 was added by Stats. 1961, Ch. 1236; amended by Stats. 1967, Ch. 1455; by Stats. 1978, Ch. 776; by Stats. 1979, Ch. 403; by Stats. 1982, Ch. 816; by Stats. 1983, Ch. 1121, effective 9/28/83; and by Stats. 1984, Ch. 674, effective 8/18/84.

Note 2: Former Section 22816.5 was added by Stats. 1976, Ch. 1415; amended by Stats. 1983, Ch. 143 and Ch. 1121, effective 9/28/83.

§ 22809. Military Leave of Absence

An employee of a contracting agency and his or her family members may continue enrollment in a health benefit plan under this part if the employee is granted a leave of absence by the contracting agency for military duty. The coverage may continue for up to one year.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22816.1 was added by Stats. 2003, Ch. 271, effective 9/4/03.

§ 22810. Member of Legislature

A Member of the Legislature may enroll in a health benefit plan. The contributions of the member shall be the total cost of his or her coverage and the

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coverage of any family members, less the amount contributed pursuant to Section 8901.6 by the state.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22817 was added by Stats. 1962, 1st Ex. Sess., Ch. 36; and amended by Stats. 1986, Ch. 917, effective 9/22/86.

§ 22811. Former Member of Legislature

Notwithstanding any other provision of this part, a former Member of the Legislature who has served six or more years as a Member of the Legislature may elect, within 60 days after permanent separation from state service, to enroll or continue enrollment in a health benefit plan and dental care plan provided to annuitants. Upon that election, the former member shall pay the total premiums related to that coverage and an additional 2 percent thereof for the administrative costs incurred by the board and the Department of Human Resources in administering this section.

The health and dental benefits shall be provided without discrimination as to premium rates or benefits coverage. A person who subsequently terminates his or her coverage under this section may not reenroll pursuant to this section.

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

Note: Former Section 22817.5 was added by Stats. 2003, Ch. 519.

§ 22812. Inactive Legislative Employees

(a) A former legislative employee who separates from employment while enrolled in a health benefit plan provided by his or her employer, by reason of layoff, involuntary termination, or retirement may enroll in a health benefit plan within 60 days of separation from employment and, thereupon, shall be deemed to have been enrolled on the date of the separation from employment.

(b) An eligible survivor of a legislative employee who was enrolled in a health benefit plan provided by the employer at the time of death may, within 60 days of the death of the employee, enroll in a health benefit plan and, thereupon, shall be deemed to have been enrolled on the date of the employee's death.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22810.4 was added by Stats. 1992, Ch. 1154, effective 9/30/92.

§ 22814. Inactive Members of JRS & JRS II

(a) A judge who retires pursuant to Chapter 11 (commencing with Section 75000) of Title 8, but is not yet receiving a pension, may continue his or her coverage and the coverage of any family members for the duration of the leave of absence, upon his or her application and upon assuming payment of the contributions otherwise required of the employer.

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(b) (1) A judge who leaves judicial office pursuant to subdivision (b) of Section 75521 and has not attained 65 years of age may continue his or her coverage and the coverage of any family members upon assuming payment of the contributions otherwise required of the employer. The judge shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources.

(2) An election to continue coverage under this subdivision shall be made within 60 days of permanent separation. A retired judge who cancels that coverage may not reenroll.

(3) Upon attaining 65 years of age, a retired judge who has continuous and uninterrupted coverage pursuant to this subdivision shall be entitled to the applicable employer contribution.

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

Note 1: See Note 1 to Section 22808 for history of former Section 22816 (relative to subdivision (a)).

Note 2: Former Section 22816.31 (relative to subdivision (b)) was added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; and amended by Stats. 1996, Ch. 482.

§ 22815. Inactive Exempt Employees and Legislators (Separated Before Age 40)

(a) The following persons are eligible for enrollment as provided in this section:

(1) A Member of the Legislature or an elective officer of the state whose office is provided by the California Constitution who meets all of the following conditions:

(A) Has at least eight years of credited service.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement, or is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

(2) An exempt employee who meets all of the following conditions:

(A) Has at least 10 years of credited state service that includes at least two years of credited service while an exempt employee.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

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(b) During the period he or she is not yet receiving a retirement allowance, a person described by subdivision (a) may continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and the employee contribution. The person shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources. An election to continue coverage under this section shall be made within 60 days of permanent separation.

(c) A person who receives coverage pursuant to this subdivision, and subsequently terminates that coverage, may not be allowed to reenroll and may not enroll as an annuitant pursuant to subdivision

(d) Upon retirement and receipt of a retirement allowance, a person described in subdivision (b) may elect to continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, at which time the state shall assume payment of the employer contribution and the person shall thereafter be deemed an annuitant.

(e) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

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

Note: Former Section 22816.7 was added by Stats. 1987, Ch. 1381; amended by Stats. 1989, Ch. 1427, effective 10/2/89; and by Stats. 1990, Ch. 1659.

§ 22816. Inactive Exempt Employees and Legislators (Separated Between Ages 40 and 60)

(a) A person who meets all of the criteria of an annuitant, as defined in subdivision (f) or (g) of Section 22760, other than the condition of receiving a retirement allowance under a retirement system supported in whole or in part by state funds, may continue enrollment in a health benefit plan or dental care plan provided to annuitants without discrimination as to premium rates or benefits coverage, upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and the employee contribution. The person shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources. An election to continue coverage under this section shall be made within 60 days of permanent separation.

(b) A person who receives coverage pursuant to this subdivision who subsequently terminates that coverage may not reenroll. However, termination under this subdivision does not affect an annuitant's rights under Section 22817. The benefits authorized by Section 22817 and this section are separate and distinct benefits.

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(c) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

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

Note: See note to Section 22815 for history of former Section 22816.7.

§ 22817. Retired Exempt Employees & Legislators with Allowance

(a) An annuitant, as defined in subdivision (f) or (g) of Section 22760, may, upon assuming payment of the employee contribution, enroll in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, at which time the state shall assume payment of the employer contribution.

(b) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22815 for history of former Section 22816.7.

§ 22818. Domestic Partners—Eligible Employees

(a) In order to receive any benefit provided by this part, an employee or annuitant shall provide, upon request of the board, any of the following:

(1) Proof in a manner designated by the board that the employee or annuitant and his or her domestic partner have filed a valid Declaration of Domestic Partnership pursuant to Section 298.5 of the Family Code or have established a valid domestic partnership, as defined by his or her contracting agency in accordance with subdivision (b) of Section 22771.

(2) A marriage certificate.

(3) A signed statement indicating that the employee or annuitant agrees that he or she may be required to reimburse the employer, the health benefit plan, and the system for any expenditures made for medical claims, processing fees, administrative expenses, and attorney's fees on behalf of the family member, if any of the submitted documentation is found to be inaccurate or fraudulent.

(b) The employee or annuitant shall notify the employer or the board when a marriage is dissolved or a domestic partnership has terminated, as required by subdivision (c) of Section 299 of the Family Code, or as required by his or her contracting agency in accordance with subdivision (b) of Section 22771.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 418.)

Note 1: Former Section 22872 was added by Stats. 1999, Ch. 588; and amended by Stats. 2003, Ch. 764.

Note 2: Former Section 22875 was added by Stats. 1999, Ch. 588; and amended by Stats. 2000, Ch. 135.

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§ 22818.5. Repealed

(Repealed by Stats. 2005, Ch. 418.)

§ 22819. Family Members of a Deceased Local Employee

(a) A family member of a deceased employee of a contracting agency who is validly enrolled or is eligible for enrollment hereunder on the date of the employee's death is deemed to be an annuitant under Section 22760, pursuant to regulations prescribed by the board.

(b) A contracting agency shall remit the amounts required under Section 22901 as well as the total amount of the premium required from the employer and enrollees hereunder in accordance with regulations of the board. Enrollment of the annuitant and eligible family members shall be continuous following the death of the employee, or the effective date of enrollment, so long as the surviving family members meet the eligibility requirements of Section 22775 and regulations pertinent thereto. Failure to timely pay the required premiums and costs or the cancellation of coverage by the annuitant shall terminate coverage without the option to reenroll. The contracting agency may elect to require the family members to pay all or any part of the employer premium for enrollment.

(c) This section shall apply to a contracting agency only upon the filing with the board of a resolution of its governing board electing to be subject to this section.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 418.)

Note: Former Section 22821 was added by Stats. 1976, Ch. 1319.

§ 22819.1. Family Members of a Deceased Annuitant

(a) A family member of a deceased annuitant who retired from a contracting agency prior to the effective date of the agency's contract to provide health coverage under this part, and who was validly enrolled in the agency's health plan on the day prior to the effective date of the contract under this part, but who does not receive an allowance in place of the annuitant, is deemed to be an annuitant for purposes of Section 22760, pursuant to regulations prescribed by the board.

(b) A contracting agency shall remit the amounts required under Section 22901 as well as the total amount of the premium required from the employer and enrollees in accordance with regulations of the board. Enrollment of the eligible family members shall be continuous following the death of the annuitant, or the effective date of enrollment, as applicable, so long as the surviving family members meet the eligibility requirements of Section 22775 and any regulations promulgated with respect to that section. Either a failure to timely pay the required premiums and associated costs of the coverage or the cancellation of coverage

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shall terminate the coverage without the option to reenroll. The contracting agency may elect to require the family members to pay all or any part of the employer premium for enrollment.

(c) This section shall apply to a contracting agency only upon the filing with the board of a resolution of its governing board electing to be subject to this section.

(Added by Stats. 2010, Ch. 639.)

§ 22820. Survivors of a Firefighter or Peace Officer

(a) Upon the death, on or after January 1, 2002, of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, a firefighter employed by the Department of Forestry and Fire Protection, a firefighter employed by the federal government who was a resident of this state and whose regular duty assignment was to perform firefighting services within this state, or a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or 830.6 of the Penal Code, if the death occurred as a result of injury or disease arising out of and in the course of his or her official duties, the surviving spouse or other eligible family member of the deceased firefighter or peace officer, if uninsured, is deemed to be an annuitant under Section 22760 for purposes of enrollment. All eligible family members of the deceased firefighter or peace officer who are uninsured may enroll in a health benefit plan of the surviving spouse's choice. However, an unmarried child of the surviving spouse is not eligible to enroll in a health benefit plan under this section if the child was not a family member under Section 22775 and regulations pertinent thereto prior to the firefighter's or peace officer's date of death. The employer of the deceased firefighter or peace officer shall notify the board within 10 business days of the death of the employee if a spouse or family member may be eligible for enrollment in a health benefit plan under this section.

(b) Upon notification, the board shall promptly determine eligibility and shall forward to the eligible spouse or family member the materials necessary for enrollment. In the event of a dispute regarding whether a firefighter's or peace officer's death occurred as a result of injury or disease arising out of and in the course of his or her official duties as required under subdivision (a), that dispute shall be determined by the Workers' Compensation Appeals Board, subject to the same procedures and standards applicable to hearings relating to claims for workers' compensation benefits. The jurisdiction of the Workers' Compensation Appeals Board under this section is limited to the sole issue of industrial causation and this section does not authorize the Workers' Compensation Appeals Board to award costs against the system.

(c) (1) Notwithstanding any other provision of law, and except as otherwise provided in subdivision (d), the state shall pay the employer contribution required

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for enrollment under this part for the uninsured surviving spouse of a deceased firefighter or peace officer for life, and the other uninsured eligible family members of a deceased firefighter or peace officer, provided the family member meets the eligibility requirements of Section 22775 and regulations pertinent thereto.

(2) The contribution payable by the state for each uninsured surviving spouse and other uninsured eligible family members shall be adjusted annually and be equal to the amount specified in Section 22871.

(3) The state's contribution under this section shall commence on the effective date of enrollment of the uninsured surviving spouse or other uninsured eligible family members. The contribution of each surviving spouse and eligible family member shall be the total cost per month of the benefit coverage afforded him or her under the plan less the portion contributed by the state pursuant to this section.

(d) The cancellation of coverage by an annuitant, as defined in this section, shall be final without option to reenroll, unless coverage is canceled because of enrollment in an insurance plan from another source.

(e) For purposes of this section, "surviving spouse" means a spouse who was married to the deceased firefighter or peace officer on the deceased's date of death and either was married for a continuous period of at least one year prior to the date of death or was married to the deceased prior to the date the deceased firefighter or peace officer sustained the injury or disease resulting in death.

(f) For purposes of this section, "uninsured" means that the surviving spouse is not enrolled in an employer-sponsored health plan under which the employer contribution covers 100 percent of the cost of health care premiums.

(g) The board has no duty to identify, locate, or notify any surviving spouse or eligible family member who may be or may become eligible for benefits under this section.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2007, Ch. 255; and by Stats. 2008, Ch. 455.)

Note: Former Section 22821.2 was added by Stats. 2001, Ch. 775.

§ 22822. Limitations on Eligibility of Family Members

No person is eligible for enrollment in a health benefit plan pursuant to this part as a family member if he or she becomes a family member of a surviving spouse of a deceased member of the system after the date of the member's death.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22823 was added by Stats. 1990, Ch. 1319, effective 9/25/90; and amended by Stats. 1997, Ch. 951.

§ 22823. Loss of Eligibility—Association Plans

(a) Notwithstanding Section 10270.5 of the Insurance Code, an employee who is enrolled in a board-approved health benefit plan sponsored by an employee

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organization that is the exclusive representative pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) and who terminates his or her membership in the respective employee organization shall become ineligible for enrollment in the health benefit plan.

(b) Notwithstanding subdivision (a), the employee may continue enrollment in the employee organization health benefit plan until he or she is notified by the employee organization of the loss of eligibility. Upon notification of the loss of eligibility, the employee within 60 days may change his or her enrollment to another health benefit plan for which the employee is eligible.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22790.2 was added by Stats. 1976, Ch. 46; amended by Stats. 1986, Ch. 1348; and by Stats. 1988, Ch. 1193.

§ 22825. Minimum Membership—CAHP Health Benefits Trust

(a) An annuitant is not eligible to participate in a health benefit plan offered by the California Association of Highway Patrolmen unless the annuitant was enrolled in the California Highway Patrolmen Health Benefits Trust for a minimum of five years as an active employee.

(b) Notwithstanding subdivision (a), an annuitant that retires for disability before becoming eligible for service retirement may enroll in a health benefit plan offered by the California Association of Highway Patrolmen if otherwise eligible.

(c) Former members of the California State Police are eligible to participate in a health benefit plan offered by the California Association of Highway Patrolmen, pursuant to subdivision (a) or (b).

Former members of the California State Police who transferred to the California Highway Patrol and retired before January 1, 2003, are exempt from the five-year requirement.

(d) This section only applies to persons who first became employees of the California Highway Patrol on or after January 1, 1994.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22810.6 was added by Stats. 1996, Ch. 1162.

§ 22826. Determination of Service Credit

For purposes of this part, service credit shall be determined according to the rules of the retirement system provided by the employer in which the employee participates. In the case of elected officials not eligible for participation in a retirement system, service credit shall be determined according to the number of years in office. In the elected official's final year of office, a completed term of office shall be sufficient to earn one year of service credit for that final year of office.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

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ARTICLE 5. ENROLLMENT AND COVERAGE

§ 22830. Generally

(a) An employee or annuitant, under eligibility rules as prescribed by board regulations, may enroll in a health benefit plan approved or maintained by the board either as an individual or for self and family.

(b) Enrollment shall serve as authorization of the deduction of the contributions required under this part from the salary of an employee or allowance of an annuitant.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22800 for history of former Section 22810.

§ 22831. Annuitants

(a) An annuitant may, as provided by regulations of the board, continue his or her enrollment, enroll within 60 days of retirement, enroll within 60 days of the death of the member, or enroll during any future open enrollment period without discrimination as to premium rates or benefit coverage. If the survivor of an annuitant is also an annuitant as defined in this part, he or she may enroll within 60 days of the annuitant's death or during any future open enrollment period, as provided by regulations of the board.

(b) Board rules and regulations shall provide whatever provisions necessary to eliminate or minimize the impact of adverse selection because of the enrollment of annuitants that would affect any health benefit plans approved or maintained. This may include the reimbursement of surcharges for late enrollment in Part B of Medicare if the board determines that payment of the surcharge would be less costly than continued enrollment in a basic plan.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22800 for history of former Section 22810.

§ 22832. Less than Full-Time Employee

A permanent intermittent employee and an employee who works less than full time may continue his or her enrollment while retired from state employment if he or she was enrolled prior to separation from state employment, and he or she lost eligibility prior to separation but continued his or her coverage under federal law.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22800 for history of former Section 22810.

§ 22834. Out-of-State Coverage

(a) An out-of-state employee who separates from service and becomes an annuitant may continue his or her enrollment in a board-approved out-of-state

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health benefit plan or may transfer to any other health benefit plan approved or maintained by the board, in which the employee would otherwise be eligible to enroll. He or she must enroll in that health benefit plan within 60 days in order for health benefits to continue.

(b) An annuitant who leaves this state and elects to reside in another state in which a health benefit plan is approved or maintained by the board may transfer his or her enrollment to that health benefit plan and shall be entitled to the employer contribution as provided in this part.

(c) When an out-of-state employee receiving benefits pursuant to Section 22803 is permanently reassigned to perform his or her duties within the state, the benefits may be continued only until the employee has had reasonable opportunity to enroll in a health benefit plan within the state that is approved or maintained by the board.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: Former Section 22862.2 was added by Stats. 1990, Ch. 1319, effective 9/25/90; and amended by Stats. 1991, Ch. 749.

Note 2: Former Section 22864 was added by Stats. 1968, Ch. 1290; repealed by Stats. 1979, Ch. 436; and added by Stats. 1984, Ch. 1307.

Note 3: Former Section 22864.1 was added by Stats. 1984, Ch. 1307.

§ 22836. Reinstatement After Unjustified Removal or Suspension

An employee enrolled in a health benefit plan who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified, unwarranted, or illegal may not be deprived of coverage or benefits for the interim. Any contributions otherwise payable by the employer that were actually paid by the employee shall be restored to the same extent and effect as though the removal or suspension had not taken place, and any other equitable adjustments necessary and proper under the circumstances shall be made in premiums, claims, and other charges.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22814 was added by Stats. 1961, Ch. 1236; amended by Stats. 1967, Ch. 1455; by Stats. 1978, Ch. 776; and by Stats. 1979, Ch. 403.

§ 22837. Effective Date of Enrollment

In the case of the death of an employee after an application has been filed for the enrollment of family members, but prior to the effective date of coverage, the family members are deemed to have been covered on the date of the death of the employee.

If one of the family members becomes an annuitant, enrollment shall continue without discrimination as to premium rates or benefit coverage.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22800 for history of former Section 22810.

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§ 22838. Enrollment—Option Upon Retirement After Reinstatement—On or after 1/1/2014

(a) An annuitant who reinstates from retirement pursuant to Article 7 (commencing with Section 21190) of Chapter 12 of Part 3 may, upon his or her subsequent retirement, elect to enroll in a health benefit plan approved or maintained by the board as an annuitant of the employer from which he or she was eligible to receive a postretirement health benefit contribution payable by that employer during his or her prior retirement, if both of the following apply:

(1) The subsequent retirement of that person occurs within 120 days after separation from employment or, if applicable, consistent with the provisions of subdivision (b) of Section 22893.

(2) That person is not eligible for a postretirement health benefit contribution from the employer from which he or she subsequently retires or the postretirement health benefit contribution payable by that employer is less than the contribution payable by that employer during his or her prior retirement.

(b) The postretirement health benefit contribution payable by an employer under this section shall be in lieu of a contribution payable to the annuitant by any other employer under this part.

(c) For purposes of calculating the employer postretirement health benefit contribution, the credited service of a person who enrolls as an annuitant pursuant to this section shall not include service performed for any other employer during his or her reinstatement from retirement.

(d) This section shall apply irrespective of whether the person receives health care coverage under this part during his or her reinstatement from retirement.

(e) An annuitant who is eligible to enroll pursuant to this section may enroll within 60 days after his or her subsequent retirement or during a future open enrollment period, as provided by regulation of the board, without discrimination as to premium rates or benefits coverage.

(f) This section shall only apply to an annuitant who, after reinstatement, subsequently retires on or after January 1, 2014.

(Added by Stats. 2013, Ch. 525.)

§ 22839. Flexible Benefits—Option to Enroll

Thirty days prior to, or 60 days following, retirement and during the open enrollment period, a state employee enrolled in a flexible benefit plan administered by the state shall be given the option to enroll in a health benefit plan approved or maintained by the board and receive the applicable employer contribution, if the state employee would otherwise qualify as an annuitant.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2009, Ch. 130.)

Note: Former Section 22813.5 was added by Stats. 1987, Ch. 683; amended by Stats. 1991, Ch. 749; and by Stats. 1992, Ch. 751.

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§ 22840. Flexible Benefits—Exception to Open Enrollment

(a) Notwithstanding any other provision of law, a state employee participating in a flexible benefits program administered by the state, who either terminated enrollment in a health benefit plan approved or maintained by the board in reliance on other medical coverage or who was enrolled in a board-approved health benefit plan for self only, may enroll in a health benefit plan without regard to the open enrollment period for either of the following purposes:

(1) For self only or self and all eligible dependents, if the flexible cash option is discontinued.

(2) To add all eligible dependents, upon loss of coverage, where the flexible cash option has not been selected.

(b) Enrollment shall be requested within 60 calendar days of the loss of other coverage and submitted to the system by the employer. The effective date of enrollment shall be the first day of the month following the loss of other coverage. Enrollment shall entitle the employee to receive the benefit of the applicable employer contribution.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22813.6 was added by Stats. 1987, Ch. 683; amended by Stats. 1991, Ch. 749; and by Stats. 1992, Ch. 751.

§ 22841. Transfer of Enrollment

(a) A transfer of enrollment from one health benefit plan to another may be made by an employee or annuitant at times and under conditions as may be prescribed by regulations of the board.

(b) In the case of a health benefit plan in which services are provided by a limited panel of physicians associated with the plan, it is recognized that it may be impossible or impractical to maintain acceptable physician-patient relationships with particular employees, annuitants, or family members. In those cases, the employee or annuitant may submit the question of ability to maintain adequate physician-patient relationships for consideration under the grievance procedure provided pursuant to subdivision (d) of Section 22853. If the grievance procedure results in a determination that an adequate physician-patient relationship cannot reasonably be maintained, then the employee or annuitant may, in accordance with regulations of the board, change his or her enrollment to another health benefit plan without regard to physical condition, age, race, or other status.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22813 was added by Stats. 1961, Ch. 1236; amended by Stats. 1978, Ch. 776; by Stats. 1979, Ch. 403; and by Stats. 1987, Ch. 1129. effective 9/25/87.

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§ 22842. Change in Family Status

A change in coverage based on a change in the family status of an employee, annuitant, or family member enrolled in a health benefit plan may be requested by the employee or annuitant by filing an application within 30 days after the occurrence of the change in family status or at other times and according to conditions as may be prescribed by regulations of the board.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22812 was added by Stats. 1961, Ch. 1236.

§ 22843. Enrollment of Spouse or Domestic Partner

If an employee or annuitant has a spouse or a domestic partner who is an employee or annuitant, each spouse or domestic partner may enroll as an individual. No person may be enrolled both as an employee or annuitant and as a family member. A family member may be enrolled in respect to only one employee or annuitant.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22811 was added by Stats. 1961, Ch. 1236.

§ 22844. Medicare

(a) Employees, annuitants, and family members who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare may not be enrolled in a basic health benefit plan. If the employee, annuitant, or family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a Medicare health benefit plan.

(b) Employees, annuitants, and family members enrolled in a prescription drug plan under Part D of Medicare may not be enrolled in a board-approved health benefit plan. This subdivision does not apply to an individual enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.

(c) This section does not apply to employees and family members that are specifically excluded from enrollment in a Medicare health benefit plan by federal law or regulation.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 527; and by Stats. 2006, Ch. 326.)

Note: Former Section 22819 was added by Stats. 1984, Ch. 676, effective 8/18/84; and amended by Stats. 2001, Ch. 793.

§ 22846. Extension of Coverage

(a) The regulations of the board shall provide for the beginning and ending dates of coverage of employees, annuitants, and family members enrolled in a health benefit plan. The regulations may permit coverage to continue, in addition

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to any temporary extension of coverage otherwise authorized under this part, until the end of the pay period in which an employee is separated from service or until the end of the month in which an annuitant ceases to be entitled to an allowance. In case of the death of an employee or annuitant, the regulations may permit a temporary extension of the coverage of family members for a period of more than 30 days.

(b) Notwithstanding any other provision of this part, an employee terminating his or her service by voluntary separation or due to dismissal for cause, prior to eligibility for retirement, may extend enrollment until the end of the month following the month in which his or her service is terminated.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: Former Section 22777 (relative to subdivision (a)) was added by Stats. 1961, Ch. 1236.

Note 2: Former Section 22820 (relative to subdivision (b)) was added by Stats. 1963, Ch. 1855.

§ 22847. Continuing Coverage—Local Safety Survivors

(a) Subject to subdivisions (b) and (c), if the eligible family members of a deceased peace officer or firefighter of a contracting agency, as described in subdivision (a) of Section 22820, are validly enrolled under this part on the date of the employee's death, the contracting agency shall continue to pay the employer contribution applicable to active employees for the continued enrollment of those eligible family members for a period not to exceed 120 days, beginning in the month of the employee's death.

(b) A contracting agency shall remit the amounts required under Section 22901 as well as the total amount of premium required from the employer under this part in accordance with regulations of the board. Enrollment of the eligible family members shall be continuous following the death of the employee.

(c) Notwithstanding subdivision (a), the contracting agency's obligation to pay the employer contribution pursuant to this section shall terminate upon either of the following:

(1) Enrollment of the eligible family members pursuant to Section 22820.

(2) A final determination of the board that the deceased employee' s family members are not eligible to enroll or continue enrollment under this part.

(d) During the period that enrollment is continued pursuant to this section, the surviving spouse or eldest eligible family member shall retain the rights and obligations that otherwise would be applicable to the employee under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22821.3 was added by Stats. 2002, Ch. 733, effective 9/20/02.

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§ 22848. Right to Appeal; Hearing

An employee or annuitant who is dissatisfied with any action or failure to act in connection with his or her coverage or the coverage of his or her family members under this part shall have the right of appeal to the board and shall be accorded an opportunity for a fair hearing. The hearings shall be conducted, insofar as practicable, pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22815 was added by Stats. 1961, Ch. 1236; amended by Stats. 1978, Ch. 776; and by Stats. 1979, Ch. 403.

§ 22849. Repealed

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

ARTICLE 6. HEALTH BENEFIT PLANS AND CONTRACTS

§ 22850. Generally

(a) The board may, without compliance with any provision of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans.

(b) The board may contract with carriers for health benefit plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the hospital and medical care fields prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, inpatient medical benefits, outpatient benefits, obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means.

(c) Notwithstanding any other provision of this part, the board may contract with health benefit plans offering unique or specialized health services.

(d) The board may administer self-funded or minimum premium health benefit plans.

(e) The board may contract for or implement employee cost containment and cost reduction incentive programs that involve the employee, the annuitant, and family members as active participants, along with the carrier and the provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing these plans, the board, in cooperation with the Department of Human Resources, may request proposals from carriers and certified public employee representatives.

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(f) Notwithstanding any other provision of this part, the board may do any of the following:

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may provide health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part pursuant to Section 22922.

(3) Implement and administer risk adjustment procedures consistent with Section 22864 that require health benefit plans to adjust premiums and authorize the system to redistribute premiums based on rules and regulations established by the board for this purpose.

(g) The board shall approve any employee association health benefit plan that was approved by the board in the 1987-88 contract year or prior, provided the plan continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees. Notwithstanding any other provision of this part, the California Correctional Peace Officer Association Health Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state.

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2012, Ch. 445; and by Stats. 2013, Ch. 778.)

Note 1: Former Section 22790 (relative to subdivisions (b), (c), (f), and (g)) was added by Stats. 1961, Ch. 1236; amended by Stats. 1965, Ch. 1339; by Stats. 1970, Ch. 356; by Stats. 1977, Ch. 330; by Stats. 1978, Ch. 776; by Stats. 1979, Ch. 403; by Stats. 1982, Ch. 1270; by Stats. 1985, Ch. 1067, effective 9/27/85, and Ch. 1140; by Stats. 1986, Ch. 199, effective 6/27/86; by Stats. 1990, Ch. 1676 and Ch. 1677; by Stats. 1991, Ch. 440; by Stats. 1992, Ch. 629; by Stats. 2002, Ch. 1, effective 1/16/02; and by Stats. 2003, Ch. 751.

Note 2: Former Section 22790.4 (relative to subdivision (d)) was added by Stats. 1987, Ch. 1129, effective 9/25/87.

Note 3: Former Section 22791 (relative to subdivisions (e) and (h)) was added by Stats. 1961, Ch. 1236; amended by Stats. 1983, Ch. 1137; and by Stats. 1987, Ch. 1129, effective 9/25/87.

Note 4: Former Section 22792 (relative to subdivision (a)) was added by Stats. 1961, Ch. 1236; amended by Stats. 1975, Ch. 38, effective 4/23/75, operative 3/31/75; by Stats. 1982, Ch. 369, effective 7/2/82; by Stats. 1987, Ch. 1129, effective 9/25/87; by Stats. 1988, Ch. 390, effective 8/11/88; and by Stats. 2003, Ch. 751.

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§ 22850.5. Core Health Plan Option—Cost Savings

(a) In performing the duties prescribed by Section 22850, the board shall negotiate with carriers providing health benefit plans to add a core health plan option to the existing portfolio of health plans or to implement other measures to achieve ongoing cost savings beginning in the 2012-13 fiscal year, or both.

(b) For purposes of this section, a "core health plan" means a plan that includes all of the following:

(1) A plan that provides coverage for essential benefits at lower premiums, for both the state and the employee, than existing benefit plan options.

(2) A plan that may include fewer benefits and higher employee cost sharing than those provided in existing health benefit plan options.

(3) A plan option that is available for participants beginning in the 2012 open enrollment period for the 2013 calendar year.

(Added by Stats. 2011, Ch. 11, effective 3/24/11.)

§ 22851. Joint Purchasing Arrangements

The board may enter into any joint purchasing arrangement with private or public entities, if the arrangement does all of the following:

(a) Benefits persons receiving health coverage under this part.

(b) Does not restrict the authority of the board or the state.

(c) Does not jeopardize the system's tax status or its governmental plan status.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22791.5 was added by Stats. 2002, Ch. 898.

§ 22852. Contract Duration

(a) A contract for a health benefit plan shall be for a uniform term of at least one year and may be made automatically renewable in the absence of notice of termination by either party. Every contract for administrative services with respect to the operation of a self-funded health benefit plan administered by the board shall be on terms as the board deems necessary or desirable.

(b) The board shall determine the beginning and ending dates of a contract with the carrier of a health benefit plan and with an entity providing services in connection with the administration of a health benefit plan.

(c) Irrespective of an agreed upon termination date, the board may extend a contract for a reasonable period of time, subject to agreed upon terms and conditions.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See Note 4 to Section 22850 for history of former Section 22792.

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§ 22853. Contract Provisions

(a) Each contract shall contain a detailed statement of benefits offered and shall include maximums, limitations, exclusions, and other definitions of benefits as the board deems necessary or desirable.

(b) Except as otherwise provided by this part, a health benefit plan or contract may not exclude any person on account of physical condition, age, race, or other status. Except as otherwise provided by this part, transfer of enrollment to a health benefit plan shall be open to all employees and annuitants in accordance with Section 22841.

(c) A health benefit plan or contract shall offer to each employee or annuitant whose enrollment in the plan is terminated other than by cancellation of enrollment, voluntary separation from employment, or dismissal from employment for cause, the option to convert to an individual health benefits policy, without regard to health status, but within the time limit approved by the board. An employee or annuitant that exercises this option shall pay the full periodic charges of the individual policy according to the terms and conditions prescribed by the carrier and approved by the board.

(d) A health benefit plan or contract shall provide grievance procedures to protect the rights of employees and annuitants.

(e) The board shall provide a sufficient number of health benefit plans that provide chiropractic services so that every employee and annuitant has a reasonable opportunity to enroll in a health benefit plan that provides chiropractic services without prior referral by a physician.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: See Note 1 to Section 22850 for history of former Section 22790 (relative to subdivision (e)).

Note 2: Former Section 22793 (relative to subdivisions (a) through (d)) was added by Stats. 1961, Ch. 1236; amended by Stats. 1963, Ch. 371, by Stats. 1965, Ch. 1971; by Stats. 1987, Ch. 1129, effective 9/25/87; and by Stats. 2003, Ch. 751.

§ 22853.1. AIDS Vaccine

(a) A health benefit plan or contract shall provide coverage for a vaccine for acquired immune deficiency syndrome (AIDS) that is approved for marketing by the federal Food and Drug Administration and that is recommended by the United States Public Health Service.

(b) This section does not require a health benefit plan or contract to provide coverage for any clinical trials relating to an AIDS vaccine or for any AIDS vaccine that has been approved by the federal Food and Drug Administration in the form of an investigational new drug application.

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(c) Nothing in this section is to be construed in any manner to limit or impede the board's power or responsibility to purchase the vaccine at the most cost-effective price.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22793.2 was added by Stats. 2001, Ch 634.

§ 22854. Contract Considerations

(a) The board, in considering a contract with any entity that seeks to enter into a contract under this article for the provision of health care benefits or services, may consider all of the following:

(1) Whether the applicant is of reputable and responsible character. The board may consider any available information that the applicant has demonstrated a pattern and practice of violations of state or federal laws and regulations.

(2) Whether the applicant has the ability to provide, or arrange to provide for, health care benefits or services. The board may consider any of the following:

(A) Any prior history of providing, or arranging to provide for, health care services or benefits in this state, the applicant's history of substantial compliance with the requirements imposed under that license, and applicable federal laws, regulations, and requirements.

(B) Any prior history in this state or any other state, of providing, or arranging to provide for, health care services or benefits authorized to receive Medicare Program reimbursement or Medicaid Program reimbursement, the applicant's history of substantial compliance with that state's requirements, and applicable federal laws, regulations, and requirements.

(C) Any prior history of providing, or arranging to provide for, health services as a licensed health professional or an individual or entity contracting with a health care service plan or insurer, and the applicant's history of substantial compliance with state requirements, and applicable federal law, regulations, and requirements.

(b) The board may also require the entity described in subdivision (a) to furnish other information or documents for the purposes of this section.

(Added by Stats. 2006, Ch. 758.)

§ 22854.5. Contract Considerations—Hospital Costs and Payments

(a) A health benefit plan or contractor, or an entity offering services relating to the administration of health benefit plans to members and annuitants, shall disclose to the board, staff, and any contractor or consultant of the system, the cost, utilization, actual claim payments, and contract allowance amounts for health care services rendered by participating hospitals to each member and annuitant.

(b) The information specified in subdivision (a) shall be deemed confidential information and protected in accordance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg), the final

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regulations issued pursuant to the act by the United States Department of Health and Human Services (45 C.F.R. Parts 160 and 164), and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code). Information provided to the board, staff, and any contractor or consultant of the system shall not include individual member or annuitant identifying information.

(c) The information specified in subdivision (a) shall be deemed to be confidential trade secret information in accordance with subdivision (d) of Section 3426.1 of the Civil Code and Section 1060 of the Evidence Code.

(d) The board shall not disclose the information specified in subdivision (a) in either individual or aggregated form to any other health care service plan or insurer or any entity offering services relating to the administration of health benefit plans, and shall not make this information available to the public, including, but not limited to, any summaries, compilations, or rankings derived from this information. This information shall be used only to make decisions that materially affect the members and annuitants of the health benefits program established by the board.

(e) Any staff, contractor, or consultant to whom information is disclosed pursuant to subdivision (a) shall be subject to all the restrictions in this section regarding the confidentiality and nondisclosure of that information.

(f) The information specified in subdivision (a), in either individual or aggregated form, shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) pursuant to subdivision (k) of Section 6254.

(g) Upon request from a hospital, the board shall, on an annual basis, provide the hospital a reasonable opportunity to validate the data that has been provided to the board by a health insurer, health care service plan, or entity pursuant to subdivision (a).

(h) For purposes of this section:

(1) "Actual claim payment" means the actual amount paid by the health care plan or administrator to the participating hospital for a health care service rendered to a member or annuitant, exclusive of member or annuitant cost sharing and any other payment adjustments.

(2) "Contract allowance amounts" means the negotiated rate that the participating hospital agrees to accept as payment for a health care service rendered to a member or annuitant under the provider agreement between the health plan or administrator and the participating hospital.

(3) "Cost" means the full amount billed by the participating hospital for a health care service rendered to a member or annuitant.

(Added by Stats. 2007, Ch. 698.)

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§ 22855. Withdrawal of Approval

The board shall withdraw its approval of a health benefit plan if it finds that the plan or carrier is not in compliance with the standards prescribed therefor, that the plan or carrier has not paid or will be unable to pay claims accrued or to accrue, or for other good cause as shown. The board shall provide reasonable notice of its intention to withdraw approval of a health benefit plan to any carrier, employee organization, or organization of physicians that may be directly interested, to the persons enrolled in the health benefit plan, and to other persons and organizations as the board may deem proper. The notice shall state the effective date of, and reason for, the withdrawal of board approval. The approval of a health benefit plan may not be withdrawn until after the notice and after all interested parties have been afforded reasonable opportunity for public hearing on the question. The hearings shall be conducted, insofar as practicable, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22776 was added by Stats. 1961, Ch. 1236; and amended by Stats. 1984, Ch. 193.

§ 22857. Contracts for Out-of-State Coverage

(a) Notwithstanding any other provision of law, the board may contract with carriers licensed and doing business in other states to provide health benefits for employees and annuitants who reside outside of this state. The contracts shall be on terms as the board deems necessary or desirable. The health benefit plans are not necessarily required to meet the minimum requirements of the board, as specified in board regulations, but shall provide appropriate safeguards for members.

(b) An out-of-state employee may enter into a group health benefit plan provided by an out-of-state health maintenance organization, group insurance policy, group service agreement, membership or subscription contract, or other similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of health benefits and that is in operation in the community or area where the employee's duties are usually performed. These contracts, plans, agreements, arrangements, or policies shall meet with the approval of, or meet standards approved by, the board.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: Former Section 22862 (relative to subdivision (b)) was added by Stats. 1968, Ch. 1290; repealed by Stats. 1979, Ch. 436; added by Stats. 1984, Ch. 1307.

Note 2: Former Section 22862.1 (relative to subdivision (a)) was added by Stats. 1990, Ch. 1319, effective 9/25/90; and amended by Stats. 1991, Ch. 749.

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§ 22859. Coordination of Benefits with Medicaid

(a) A health benefit plan or contract may not provide any of the following:

(1) An exception for other coverage where the other coverage is entitlement to Medi-Cal or medicaid benefits.

(2) An exception for Medi-Cal or medicaid benefits.

(3) A benefits reduction if the person has entitlement to Medi-Cal or medicaid benefits.

(4) An exception for enrollment because of an applicant's entitlement to Medi-Cal or medicaid benefits.

(b) Each health benefit plan shall be considered in determining the third-party liability for medical expenses incurred by a Medi-Cal or a medicaid recipient.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22793.1 was added by Stats. 1994, Ch. 147, effective 7/11/94.

§ 22860. Integration with Federal and State Benefits

It is the policy of the Legislature that benefits provided by a health benefit plan be integrated with the benefits provided by federal or state plans for health care services for the aged in which there is federal or state financial participation. The board shall adopt rules and regulations necessary to implement this section. Notwithstanding any other provision of this part, those rules and regulations may establish exclusions and limitations with respect to benefits, different rates within health benefit plans for employees or annuitants eligible for benefits under other plans, or enrollment of those employees or annuitants in separate plans.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 22.)

Note: Former Section 22775.5 was added by Stats. 1965, Ch. 1764.

§ 22863. Information Regarding Health Plans

(a) The board shall make available to employees and annuitants eligible to enroll in a health benefit plan information that will enable the employees or annuitants to exercise an informed choice among the available health benefit plans. Each employee or annuitant enrolled in a health benefit plan shall be issued an appropriate document setting forth or summarizing the services or benefits to which the employee, annuitant, or family members are entitled to thereunder, the procedure for obtaining benefits, and the principal provisions of the health benefit plan.

(b) The board shall compile and provide data regarding age, sex, family composition, and geographical distribution of employees and annuitants and make continuing study of the operation of this part, including, but not limited to, surveys and reports on health benefit plans, medical and hospital benefits, the standard of care available to employees and annuitants, and the experience of health benefit plans receiving contributions under this part with respect to matters such as gross and net cost, administrative cost, and utilization of benefits.

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(c) The board shall, with the advice of and in consultation with persons or organizations having special skills or experience in the provision of health care services, study methods of evaluating and improving the quality and cost of health care services provided under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22778 was added by Stats. 1961, Ch. 1236; and amended by Stats. 2002, Ch. 898.

§ 22864. Premiums

(a) Premiums charged for enrollment in a health benefit plan shall reasonably reflect the cost of the benefits provided.

(b) This part does not limit the board's authority to do any of the following:

(1) Enter into contracts with carriers providing compensation based on carrier performance.

(2) Credit premiums to an employer for expenditures that the board determines are likely to improve the health status of employees and annuitants or otherwise reduce health care costs.

(3) Adjust the premiums charged under any health benefit plan or contract to reflect regional variations in the cost of health care services and other relevant factors. Any adjustment of these premiums shall be at the sole discretion of the board and shall only apply to the premiums charged to employees and annuitants of contracting agencies. The board may require a contracting agency and its employees and annuitants to pay the premium rate established pursuant to this paragraph, which may be different than the health benefit plan or contract premium rate that would otherwise be applicable to that agency.

(4) Adjust premiums as part of programs for health promotion and disease prevention.

(5) Develop procedures for risk adjustment of premiums across plans that encourage plans to offer benefits based upon medical and administrative efficiency and quality of care rather than on the employee's or annuitant's health status or service areas with low-risk populations. Any risk adjustment program or procedure shall be at the sole discretion of the board.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2012, Ch. 445.)

Note: Former Section 22794 was added by Stats. 1961, Ch. 1236; repealed and added by Stats. 2002, Ch. 898; and amended by Stats. 2003, Ch. 751.

§ 22864.1. Premiums—Self-funded Benefit Plans

(a) This part does not limit the board's authority to use reserves generated by one or more self-funded benefit plans to reduce or otherwise pay the premiums charged for enrollment in one or more separate self-funded health benefit plans offered by the board.

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(b) This section shall remain in effect only until June 30, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2010, deletes or extends that date.

(Repealed by Stats. 2009, Ch. 340; added by Stats. 2009, Ch. 12 and Ch. 340.)

§ 22865. Notice of Proposed Changes

Prior to the approval of proposed benefits and premium readjustments authorized under Section 22864, the board shall notify the Legislature, the Trustees of the California State University, and the Department of Human Resources of the proposed changes in writing.

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

Note: Former Section 22794.1 was added by Stats. 1984, Ch. 676, effective 8/18/84; and amended by Stats. 1988, Ch. 136.

§ 22866. Reports to Legislature

The board shall report to the Legislature annually, on November 1, regarding the success or failure of each health benefit plan. The report shall include, but not be limited to, the costs to the board and to participants, the degree of satisfaction of members and annuitants with the health benefit plans and with the quality of the care provided, as determined by a representative sampling of participants, and the level of accessibility to preferred providers for rural members who do not have access to health maintenance organizations.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: See Note 3 to Section 22850 for history of former Section 22791.

Note 2: Former Section 22840.3 was added by Stats. 1987, Ch. 1129, effective 9/25/87.

§ 22867. Applicability of Article

The provisions of this article do not supersede, modify, or in any manner alter or impair the effect of any provision of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or any provision of the Insurance Code.

This article shall be interpreted and applied in a manner consistent with those provisions of the Business and Professions Code and the Insurance Code.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22795 was added by Stats. 1961, Ch. 1236; amended by Stats. 1977, Ch. 330; and by Stats. 1982, Ch. 72, effective 3/1/82.

§ 22869. Dissemination of Information

Information disseminated by the board pursuant to Section 22863, and compliance with regulations of the board adopted pursuant to subdivision (a) of

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Section 22846 and Sections 22800 and 22831, shall be deemed to satisfy the requirements of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22779 was added by Stats. 1982, Ch. 72, effective 3/1/82.

ARTICLE 7. STATE CONTRIBUTIONS

§ 22870. Generally

(a) The state and each employee or annuitant shall contribute a portion of the cost of providing the benefit coverage afforded under the approved health benefit plan in which the employee or annuitant is enrolled.

(b) An annuitant is entitled to only one employer contribution. If more than one annuitant is receiving an allowance as the survivor of the same employee or annuitant, there shall be only one employer contribution with respect to all of those annuitants.

(c) The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him or her under the health benefit plan or plans in which he or she is enrolled less the portion thereof to be contributed by the employer. The employer contribution for each employee or annuitant shall commence on the effective date of enrollment.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825 was added by Stats. 1961, Ch. 1236; amended by Stats. 1963, Ch. 2114; by Stats. 1967, Ch. 817 and Ch. 1455; by Stats. 1968, Ch. 1454; by Stats. 1969, Ch. 1376; by Stats. 1970, Ch. 212; by Stats. 1972, Ch. 907, effective 8/15/72; by Stats. 1978, Ch. 776; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1990, Ch. 1676; by Stats. 1994, Ch. 308, effective 7/21/94; by Stats. 2002, Ch. 896; and by Stats. 2003, Ch. 519.

§ 22871. 100/90 Formula—State Annuitants

(a) The employer contribution, with respect to each employee or annuitant who is in the employment of or retired from service with the state, including an academic position with the California State University, or is a survivor of that person, shall be adjusted by the Legislature in the annual Budget Act. Those adjustments shall be based on the principle that the employer contribution for each employee or annuitant shall be an amount equal to 100 percent of the weighted average of the health benefit plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. For each employee or annuitant with enrolled family members, the employer shall contribute an additional 90 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in

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the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. Only the enrollment of, and premiums paid by, state employees and annuitants enrolled in a basic health benefit plan shall be counted for purposes of calculating the employer contribution under this section.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.1 was added by Stats. 1974, Ch. 374; amended by Stats. 1975, Ch. 38, effective 4/23/75, operative 3/31/75; by Stats. 1975, Ch. 175, effective 6/30/75; by Stats. 1976, Ch. 188, effective 5/28/76, operative 3/31/76; by Stats. 1977, Ch. 192, effective 6/30/77; by Stats. 1978, Ch. 844, effective 9/15/78; by Stats. 1979, Ch. 308, effective 7/25/79, operative 7/1/79; by Stats. 1983, Ch. 1318; by Stats. 1987, Ch. 1129, effective 9/25/87; by Stats. 1989, Ch. 1388, effective 10/2/89; by Stats. 2000, Ch. 1002; and by Stats. 2003, Ch. 751.

§ 22871.5. Employer Contribution—State Active Employees

(a) Notwithstanding Section 22871, the employer contribution with respect to each excluded employee, as defined by subdivision (b) of Section 3527, who is otherwise eligible shall be determined by the Department of Human Resources subject to the appropriation of funds by the Legislature.

(b) Notwithstanding Section 22871, the employer contribution with respect to each state employee, as defined by subdivision (c) of Section 3513, who is otherwise eligible shall be determined through the collective bargaining process subject to the appropriation of funds by the Legislature.

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

Note: Former Section 22825.15 was added by Stats. 1991, Ch. 83, effective 6/30/91.

§ 22871.6. Employer Contribution—State Active Employees—Unit 9

(a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Unit 9 shall be as described in subdivision (b).

(b) Effective January 1, 2004, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding

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family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.10 was added by Stats. 2003, Ch. 616.

§ 22871.7. Employer Contribution—State Active Employees—Units 5 and 8

(a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Units 5 and 8 shall be as described in subdivision (b).

(b) (1) From January 1, 2004, to December 31, 2005, inclusive, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(2) Beginning January 1, 2006, the employer contribution for each employee shall be an amount equal to 85 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for

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enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.11 was added by Stats. 2003, Ch. 617.

§ 22871.8. Employer Contribution—State Active Employees—Units 16 and 19

(a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Units 16 and 19 shall be as described in subdivision (b).

(b) (1) From January 1, 2004, to December 31, 2005, inclusive, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(2) Beginning January 1, 2006, the employer contribution for each employee shall be an amount equal to 85 percent of the weighted average of the basic health benefit plan premium for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula

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is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(3) Beginning January 1, 2007, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premium for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2013, Ch. 391, effective 9/27/2013.)

Note: Former Section 22825.12 was added by Stats. 2003, Ch. 615.

§ 22871.9. Employer Contribution—State Active Employees—Units 1, 4, 10, 11, 14, 15, 17, 20, and 21

(a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Units 1, 4, 10, 11, 14, 15, 17, 20, and 21 shall be as described in subdivision (b).

(b) Effective January 1, 2004, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for

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enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.19 was added by Stats. 2003, Ch. 615.

§ 22872. Disbursements for Out-of-State Coverage

If an out-of-state employee is enrolled in a health benefit plan, policy, contract, service agreement, or arrangement described in Section 22857 and elects to receive the benefits provided by this part, the state and the employee shall contribute and disburse a portion of the cost of providing the benefit coverage in the same amounts and in a like manner as is provided for contributions, withholdings, appropriations, and payments for health benefit plans under Sections 22871, 22880, 22881, 22883, 22885, and 22913. Disbursements may be made to any person, association, corporation, insurer, or other entity responsible for providing the benefit coverage, except that the state shall make no contribution to the Public Employees' Contingency Reserve Fund, for other than administrative expense, with respect to an out-of-state employee and the fund may not be made available to any extent or for any purpose other than payment of administrative costs with respect to the employee or the plan, policy, contract, service agreement, or arrangement in which he or she is enrolled under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22863 was added by Stats. 1968, Ch. 1290; amended by Stats. 1974, Ch. 374; repealed by Stats. 1979, Ch. 436; and added by Stats. 1984, Ch. 1307.

§ 22873. Vesting—State Employees Hired After 1/1/85

(a) Notwithstanding Section 22871, a state employee first hired on or after January 1, 1985, may not be vested for the full employer contribution payable for annuitants unless he or she has 10 years of credited state service at the time of retirement. The employer contribution payable for annuitants with less than 10 years of service shall be prorated based on credited state service at the time of

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retirement. This section shall apply only to state employees who retire for service. For purposes of this section, "state service" includes all municipal, superior, and justice court services rendered by a justice of the Supreme Court or court of appeal, or by a judge of the superior court.

(b) This section does not apply to employees of the California State University or of the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 328.)

Note: Former Section 22825.2 was added by Stats. 1984, Ch. 676, effective 8/18/84; amended by Stats. 1990, Ch. 1659; by Stats. 1991, Ch. 1149; and by Stats. 1994, Ch. 235.

§ 22874. Vesting—Represented State Employees Hired After 1/1/89

(a) Notwithstanding Sections 22870, 22871, and 22873, a state employee, defined by subdivision (c) of Section 3513, who becomes a state member of the system after January 1, 1989, may not receive any portion of the employer contribution payable for annuitants unless the person is credited with 10 years of state service at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(c) This section shall apply only to state employees that retire for service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation. Notwithstanding Section 22826, for purposes of this section, credited state service includes service to the state for which the employee, pursuant to Section 20281.5, did not receive credit.

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(d) This section does not apply to employees of the California State University, the judicial branch, or the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2004, Ch. 214; and by Stats. 2005, Ch. 328.)

Note: Former Section 22825.3 was added by Stats. 1988, Ch. 906, effective 9/14/88; amended by Stats. 1989, Ch. 1035; by Stats. 1991, Ch. 1149; and by Stats. 1999, Ch. 446, effective 9/21/99.

§ 22874.1. Vesting—State Employees—Unit 12—Hired After 1/1/11

(a) Notwithstanding Sections 22870, 22871, 22873, and 22874, a state employee, defined by subdivision (c) of Section 3513, who is employed by the state for the first time, and who is represented by State Bargaining Unit 12, who becomes a state member of the system on or after January 1, 2011, may not receive any portion of the employer contribution payable for annuitants unless the person is credited with 15 years of state service at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Years of Service Contribution	Credited Years Percentage of Employer Contribution
15	50
16	55
17	60
18	65
19	70
20	75
21	80
22	85
23	90
24	95
25 or more	100

(c) This section shall apply only to state employees who retire for service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation. Notwithstanding Section 22826, for purposes of this section, credited state service includes service to the state for which the employee, pursuant to Section 20281.5, did not receive credit.

(d) This section does not apply to:

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(1) Former state employees previously employed before January 1, 2011, who return to state employment on or after January 1, 2011.

(2) State employees hired prior to January 1, 2011, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2011, who become subject to representation by State Bargaining Unit 12 on or after January 1, 2011.

(4) State employees on an approved leave of absence employed before January 1, 2011, who return to active employment on or after January 1, 2011.

(5) State employees hired after January 1, 2011, who are first represented by a state bargaining unit other than State Bargaining Unit 12.

(6) Employees of the California State University, the judicial branch, or the Legislature.

(e) Notwithstanding Section 22875, this section shall also apply to a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service who met the requirements of this section when employed by the state for the first time.

(Added by Stats. 2010, Ch. 162, effective 8/23/10; amended by Stats. 2011, Ch. 296.)

§ 22875. Vesting—Excluded State Employees Hired After 1/1/90

(a) Notwithstanding Sections 22870, 22871, 22873, and 22874, a state employee who becomes a state member of the system after January 1, 1990, and is either excluded from the definition of a state employee in subdivision (c) of Section 3513, or a nonelected officer or employee of the executive branch of government who is not a member of the civil service, may not receive any portion of the employer contribution payable for annuitants, unless the employee is credited with 10 years of state service, as defined by this section, at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80

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Credited Years of Service	Percentage of Employer Contribution
17	85
18	90
19	95
20 or more	100

(c) This section shall apply only to state employees who retire for service.

(d) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(e) For the purposes of this section, "state service" means service rendered as an employee or an appointed or elected officer of the state for compensation. Notwithstanding Section 22826, for purposes of this section, credited state service includes service to the state for which the employee, pursuant to Section 20281.5, did not receive credit.

(f) This section does not apply to employees of the California State University, the judicial branch, or the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2004, Ch. 214; and by Stats. 2005, Ch. 328.)

Note: See note to Section 22874 for history of former Section 22825.3.

§ 22875.5. Vesting—Employees of Transferred Public Agency Function

(a) If the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elective officers of that public agency may not be credited as state service for the purposes of Section 22874 or 22875, unless both of the following apply:

(1) The former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee health benefits that were vested at the time that the function and the related personnel were assumed by the state.

(2) The Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement health benefit costs of those personnel.

(b) For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under Section 22874 or 22875.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22874 for history of former Section 22825.3.

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§ 22876. Vesting—Employees of Transferred Firefighting Function

(a) For the purpose of meeting the vesting requirements of Section 22873, employees of the County of Merced who became employees of the state as a result of the state's assuming firefighting functions for that county shall be credited with state service for each completed year of service with the county that would have been credited by the county for the vesting of postretirement health benefits. The definition of "state service" does not apply to employees of the County of Merced who became employees of the state as a result of the state assuming firefighting functions for the county on or before August 1, 1988.

(b) Notwithstanding Section 22875.5, for the purposes of meeting the vesting requirements of Section 22873, 22874, or 22875, employees of the Cities of Rubidoux and Coachella who become employees of the state, on or before December 31, 1990, as a result of the state's assuming firefighting functions for the city, shall be credited with state service for each completed year of service with the city. The city shall identify those employees and provide the corresponding service credit information to the board.

(c) No employee whose firefighting function was transferred to the state after December 31, 1990, shall receive credit toward postretirement health benefits vesting unless the former employer agrees to reimburse the state for the costs of that credit in accordance with Section 22875.5.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 328.)

Note 1: See note to Section 22873 for history of former Section 22825.2 (relative to subdivision (a)).

Note 2: Former Section 22825.4 (relative to subdivisions (b) and (c)) was added by Stats. 1994, Ch. 1087.

§ 22877. Rural Health Care Equity Program

(a) As used in this section, the following definitions shall apply:

(1) "Coinsurance" means the provision of a health benefit plan design that requires the health benefit plan and state employee to share the cost of hospital or medical expenses at a specified ratio.

(2) "Deductible" means the annual amount of out-of-pocket medical expenses that a state employee must pay before the health benefit plan begins paying for expenses.

(3) "Program" means the Rural Health Care Equity Program.

(4) "Rural area" means an area in which there is no board-approved health maintenance organization plan available for enrollment by state employees residing in the area.

(b) (1) The Rural Health Care Equity Program is hereby established for the purpose of funding the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care expenses paid by

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eligible employees living in rural areas that would otherwise be covered if the state employee was enrolled in a board-approved health maintenance organization plan. The program shall be administered by the Department of Personnel Administration or by a third-party administrator approved by the Department of Personnel Administration in a manner consistent with all applicable state and federal laws. The board shall determine the rural area for each subsequent fiscal year, at the same time that premiums for health maintenance organization plans are approved.

(2) Separate accounts shall be maintained within the program for all of the following:

(A) Employees, as defined in subdivision (c) of Section 3513.

(B) Excluded employees, as defined in subdivision (b) of Section 3527.

(c) Moneys in the program shall be allocated to the respective accounts as follows:

(1) The contribution provided by the state with respect to each employee, as defined in subdivision (c) of Section 3513, who lives in a rural area and is otherwise eligible, shall be an amount determined through the collective bargaining process.

(2) The contribution provided by the state with respect to each excluded employee, as defined in subdivision (b) of Section 3527, who lives in a rural area and is otherwise eligible, shall be an amount equal to, but not to exceed, the amount contributed pursuant to paragraph (1).

(3) If an eligible employee enters or leaves service with the state during a fiscal year, contributions for the employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving the bargaining unit, including a person who enters State Bargaining Unit 5 by promotion during a fiscal year.

(d) Each fund of the State Treasury, other than the General Fund, shall reimburse the General Fund for any sums allocated pursuant to subdivision (c) for employees whose compensation is paid from that fund. That reimbursement shall be accomplished using the following methodology:

(1) On or before December 1 of each year, the Department of Personnel Administration shall provide a list of active state employees who participated in the program during the previous fiscal year to each employing department.

(2) On or before January 15 of each year, each department that employed an active state employee identified by the Department of Personnel Administration as a participant in the program shall provide the Department of Personnel Administration with a list of the funds used to pay each employee's salary, along with the proportion of each employee's salary attributable to each fund.

(3) Using the information provided by the employing departments, the Department of Personnel Administration shall compile a list of program payments attributable to each fund. On or before February 15 of each year, the Department of Personnel Administration shall transmit this list to the Department of Finance.

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(4) The Department of Finance shall certify to the Controller the amount to be transferred from the unencumbered balance of each fund to the General Fund.

(5) The Controller shall transfer to the General Fund from the unencumbered balance of each impacted fund the amount specified by the Department of Finance.

(6) To ensure the equitable allocation of costs, the Director of the Department of Personnel Administration or the Director of Finance may require an audit of departmental reports.

(e) Notwithstanding any other law and subject to the availability of funds, moneys within the program shall be disbursed for the benefit of eligible employees. The disbursements shall subsidize the preferred provider plan premiums for the employee by an amount equal to the difference between the weighted average of board-approved health maintenance organization premiums and the lowest board-approved preferred provider plan premium available under this part, and reimburse the employee for a portion or all of his or her incurred deductible, coinsurance, and other out-of-pocket health-related expenses that would otherwise be covered if the employee and his or her family members were enrolled in a board-approved health maintenance organization plan. These subsidies and reimbursements shall be provided as determined by the Department of Personnel Administration, which may include, but is not limited to, a supplemental insurance plan, a medical reimbursement account, or a medical spending account plan.

(f) Subject to subdivision (h), moneys remaining in an account of the program at the end of any fiscal year shall remain in the account for use in subsequent fiscal years, until the account is terminated. Moneys remaining in a program account upon termination, after payment of all expenses and claims incurred prior to the date of termination, shall be deposited in the General Fund.

(g) The Legislature finds and declares that the program shall be operated for the exclusive benefit of employees of State Bargaining Unit 5.

(h) This section shall be operative only to the extent that funding is provided in the annual Budget Act or another statute and solely for the benefit of employees of State Bargaining Unit 5.

(i) This section shall cease to be operative on July 3, 2010, or on an earlier date if the board makes a formal determination that health maintenance organization plans are no longer the most cost-effective health benefit plans offered by the board.

(j) Notwithstanding any other law, on and after July 1, 2009, the benefits of the Rural Health Care Equity Program shall be available only to employees in State Bargaining Unit 5, and shall not be available to any other employees. Pursuant to subdivision (f), any moneys that remain in the accounts of the program on July 1, 2009, other than moneys attributable to employees in State Bargaining Unit 5 on that date, shall be deposited in the General Fund. Benefits of the Rural Health Care Equity Program shall cease to be available to employees in State Bargaining

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Unit 5, on and after July 3, 2010, and any moneys remaining in the accounts of the program shall be deposited in the General Fund.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2004, Ch. 214; by Stats. 2005, Ch. 74, effective 7/19/05; and by Stats. 2006, Ch. 642 and by Stats. 2009, Ch. 12.)

Note: Former Section 22825.01 was added by Stats. 1990, Ch. 1251, effective 9/24/90; repealed and added by Stats. 1999, Ch. 743; amended by Stats. 2000, Ch. 135 and Ch. 402, effective 9/11/00; and by Stats. 2003, Ch. 228 and Ch. 757.

§ 22878. Rebate—CAHP Health Benefits Trust

A health benefit plan offered by the California Association of Highway Patrolmen may rebate funds to participants enrolled in the basic and Medicare health benefit plans sponsored by the association, in order to ensure that participant out-of-pocket costs remain at a reasonable and competitive level as determined by the Board of Trustees of the California Association of Highway Patrolmen Health Benefits Trust. The payments shall be made from the special reserves of the health benefits trust fund. The amount of funds shall be limited to the portion of special reserves for that health benefit plan that is in excess of the amount necessary to fund the risk up to the reinsurance attachment level. Administrative costs incurred by the state for the implementation of this section shall be reimbursed by the health benefits trust from the same funds.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.17 was added by Stats. 1992, Ch. 103, effective 6/30/92; amended by Stats. 1993, Ch. 1205, effective 10/11/93; and by Stats. 2000, Ch. 1002.

§ 22879. Supplemental Benefits

(a) The board shall pay monthly to an employee or annuitant who is enrolled in, or whose family member is enrolled in, a Medicare health benefit plan under this part the amount of the Medicare Part B premiums, exclusive of penalties, except as provided in Section 22831. This payment may not exceed the difference between the maximum employer contribution and the amount contributed by the employer toward the cost of premiums for the health benefit plan in which the employee or annuitant and his or her family members are enrolled. No payment may be made in any month if the difference is less than one dollar ($1).

(b) This section shall be applicable only to state employees, annuitants who retired while state employees, and the family members of those persons.

(c) With respect to an annuitant, the board shall pay to the annuitant the amount required by this section from the same source from which his or her allowance is paid. Those amounts are hereby appropriated monthly from the General Fund to reimburse the board for those payments.

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(d) There is hereby appropriated from the appropriate funds the amounts required by this section to be paid to active state employees.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.7 was added by Stats. 1977, Ch. 1186, effective 9/30/77, operative 1/1/78; amended by Stats. 1978, Ch. 1180, effective 9/27/78; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 2002, Ch. 898.

§ 22880. Employee and State Contributions

The contributions of each employee and annuitant shall be withheld from the monthly salary or retirement allowance payable to him or her.

The employer contribution required of the state, as provided by Sections 22881 and 22883, for any month shall be charged to the same fund used for payment of salaries and wages from which the employee contribution is deducted.

The employer contribution required of the state on account of each annuitant shall be payable from the funds appropriated for that purpose.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22827 was added by Stats. 1961, Ch. 1236; and amended by Stats. 1965, Ch. 312.

§ 22881. Monthly Appropriation of State's Contributions—General Fund

From the General Fund in the State Treasury, there is hereby appropriated monthly the employer contribution required of the state under Sections 22820, 22834, 22870, 22871, and 22885 for:

(a) All employees whose compensation is paid from the General Fund.

(b) All employees whose compensation is paid from funds of, or funds appropriated to, the California State University.

(c) All employees who are employed by the Department of Education or the Department of Rehabilitation and whose compensation is paid from the Vocational Education Federal Fund, the Vocational Rehabilitation Federal Fund, or any other fund received, in whole or in part, as a donation to the state under restrictions preventing its use for such contributions.

(d) All employees whose compensation is paid from the Senate Contingent Fund, Assembly Contingent Fund, or the Contingent Fund of the Assembly and Senate.

(e) All annuitants.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22828 was added by Stats. 1961, Ch. 1236; amended by Stats. 1970, Ch. 346; by Stats. 1974, Ch. 374, effective 6/30/74, operative 7/1/74; and by Stats. 2001, Ch. 775.

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§ 22883. Monthly Appropriation of State's Contribution—Other Funds

(a) Each fund in the State Treasury, other than the General Fund, shall be charged a fair share of the employer contribution for annuitants in accordance with the provisions of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3.

(b) From each fund in the State Treasury, other than the General Fund, there is hereby appropriated monthly the employer contribution required under Sections 22870, 22871, and 22885 for all employees whose compensation is paid from that fund.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: Former Section 22828.5 (relative to subdivision (a)) was added by Stats. 1965, Ch. 1320.

Note 2: Former Section 22829 (relative to subdivision (b)) was added by Stats. 1961, Ch. 1236; and amended by Stats. 1975, Ch. 295, effective 8/22/75.

§ 22885. Additional Amounts for Administration

(a) The state shall, in addition to the contributions required by Section 22870, contribute additional amounts necessary to provide funds for the administration of this part and for the establishment and continuation of the Public Employees' Contingency Reserve Fund.

(b) The additional contributions shall be in amounts reasonably adequate to pay the administrative expenses and to establish and maintain the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, as determined by the board and as adopted by the Legislature in an appropriate control section of the annual Budget Act, but may not exceed, for each employee or annuitant, the following amounts:

(1) For administrative expenses, 2 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

(2) For the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, 4 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22826 was added by Stats. 1961, Ch. 1236; amended by Stats. 1978, Ch. 844; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1984, Ch. 268, effective 6/30/84.

§ 22887. Repealed

(Repealed by Stats. 2005, Ch. 418.)

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§ 22887.5. Repealed

(Repealed by Stats. 2005, Ch. 418.)

§ 22889. Compliance with Standards

Any person or entity subject to the requirements of this chapter shall comply with the standards set forth in Chapter 7 (commencing with Section 3750) of Part 1 of Division 9 of the Family Code and Section 14124.94 of the Welfare and Institutions Code.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.14 was added by Stats. 1994, Ch. 147, effective 7/11/94; and amended by Stats. 1996, Ch. 1062.

ARTICLE 8. CONTRACTING AGENCY CONTRIBUTIONS

§ 22890. Generally

(a) The contracting agency and each employee or annuitant shall contribute a portion of the cost of providing the benefit coverage afforded under the health benefit plan approved or maintained by the board in which the employee or annuitant may be enrolled.

(b) An annuitant is entitled to only one employer contribution. If more than one annuitant is receiving an allowance as the survivor of the same employee or annuitant, there shall be only one employer contribution with respect to all such annuitants.

(c) The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him or her under the health benefit plan or plans in which he or she is enrolled less the portion thereof to be contributed by the employer. The employer contribution for each employee and annuitant shall commence on the effective date of enrollment.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22870 for history of former Section 22825.

§ 22892. Employer Contribution

(a) The employer contribution of a contracting agency shall begin on the effective date of enrollment and shall be the amount fixed from time to time by resolution of the governing body of the agency. The resolution shall be filed with the board and the contribution amount shall be effective on the first day of the second month following the month in which the resolution is received by the system.

(b) (1) The employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the following:

(A) Prior to January 1, 2004, sixteen dollars ($16) per month.

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(B) During calendar year 2004, thirty-two dollars and twenty cents ($32.20) per month.

(C) During calendar year 2005, forty-eight dollars and forty cents ($48.40) per month.

(D) During calendar year 2006, sixty-four dollars and sixty cents ($64.60) per month.

(E) During calendar year 2007, eighty dollars and eighty cents ($80.80) per month.

(F) During calendar year 2008, ninety-seven dollars ($97) per month.

(2) Commencing January 1, 2009, the employer contribution shall be adjusted annually by the board to reflect any change in the medical care component of the Consumer Price Index and shall be rounded to the nearest dollar.

(c) A contracting agency may, notwithstanding the equal contribution requirement of subdivision (b), establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants is annually increased to equal an amount not less than the number of years that the contracting agency has been subject to this subdivision multiplied by 5 percent of the current monthly employer contribution for employees, until the time that the employer contribution for annuitants equals the employer contribution paid for employees. This annual adjustment to the minimum monthly employer contribution for an annuitant as authorized by this subdivision shall not exceed one hundred dollars ($100). This subdivision shall only apply to agencies that first become subject to this part on or after January 1, 1986.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 328; and by Stats. 2006, Ch. 862.)

Note 1: See note to Section 22870 for history of former Section 22825.

Note 2: Former Section 22825.6 was added by Stats. 1970, Ch. 724; and amended by Stats. 1971, Ch. 1165, operative 4/1/72.

Note 3: Former Section 22857 was added by Stats. 1985, Ch. 1067, effective 9/27/85; amended by Stats. 1988, Ch. 602; and by Stats. 2001, Ch. 793.

§ 22893. Contract Option—Vesting Schedule

(a) Notwithstanding Section 22892, the percentage of employer contribution payable for postretirement health benefits for an employee of a contracting agency subject to this section shall, except as provided in subdivision (b), be based on the member's completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55

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Credited Years of Service	Percentage of Employer Contribution
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

This subdivision shall apply only to employees who retire for service and are first employed after this section becomes applicable to their employer, except as otherwise provided in paragraph (6). The application of this subdivision shall be subject to the following provisions:

(1) The employer contribution with respect to each annuitant shall be adjusted by the employer each year. Those adjustments shall be based upon the principle that the employer contribution for each annuitant may not be less than the amount equal to 100 percent of the weighted average of the health benefit plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. For each annuitant with enrolled family members, the employer shall contribute an additional 90 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. Only the enrollment of, and premiums paid by, state employees and annuitants enrolled in basic health benefit plans shall be counted for purposes of calculating the employer contribution under this section.

(2) The employer shall have, in the case of employees represented by a bargaining unit, reached an agreement with that bargaining unit to be subject to this section.

(3) The employer shall certify to the board, in the case of employees not represented by a bargaining unit, that there is not an applicable memorandum of understanding.

(4) The credited service of an employee for the purpose of determining the percentage of employer contributions applicable under this section shall mean state service as defined in Section 20069, except that at least five years of service shall have been performed entirely with that employer.

(5) The employer shall provide the board any information requested that the board determines is necessary to implement this section.

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(6) The employer may, once each year without discrimination, allow all employees who were first employed before this section became applicable to the employer to individually elect to be subject to the provisions of this section, and the employer shall notify the board which employees have made that election.

(b) Notwithstanding subdivision (a), the contribution payable by an employer subject to this section shall be equal to 100 percent of the amount established pursuant to paragraph (1) of subdivision (a) on behalf of any annuitant who either:

(1) Retired for disability.

(2) Retired for service with 20 or more years of service credit entirely with that employer, regardless of the number of days after separation from employment. The contribution payable by an employer under this paragraph shall be paid only if it is greater than, and made in lieu of, a contribution payable to the annuitant by another employer under this part. The board shall establish application procedures and eligibility criteria to implement this paragraph.

(c) This section does not apply to any contracting agency, its employees, or annuitants unless and until the agency files with the board a resolution of its governing body electing to be so subject. The resolution shall be adopted by a majority vote of the governing body and shall be effective at the time provided in board regulations.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22825.5 was added by Stats. 1996, Ch. 946; amended by Stats. 1997, Ch. 951; and by Stats. 1998, Ch. 485 and Ch. 996; and repealed and added by Stats. 2001, Ch. 798.

§ 22893.1. Employer Contribution—City of Carson

(a) Notwithstanding any other provision of this part, the percentage of employer contribution payable for postretirement health benefits for an employee of the City of Carson, California, shall be based on the employee's completed years of credited service, provided that the City of Carson shall not pay an employer contribution for the first five years of that credited service, and shall pay thereafter as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
5	50
6	60
7	70
8	80
9	90
10	100

The application of this subdivision shall be subject to the following:

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(1) (A) The employer contribution with respect to each annuitant shall be mutually agreed upon through collective bargaining by the City of Carson and the exclusive representatives of employees of the city. The employer may adjust the amount from time to time through a collectively bargained memorandum of understanding. Changes to the employer contribution shall be ratified by a resolution passed by the city council of the City of Carson and that resolution shall be filed with the board. The employer contribution established by this paragraph shall not be less than the adjusted employer contribution required by subdivision (b) of Section 22892.

(B) In the case of employees not represented by a bargaining unit, the employer contribution with respect to each annuitant shall be determined pursuant to a resolution passed by a majority of the city council of the City of Carson and that resolution shall be filed with the board.

(2) The employer shall certify to the board, in the case of employees not represented by a bargaining unit, that there is not an applicable memorandum of understanding.

(3) The credited service of an annuitant for the purpose of determining the percentage of employer contributions applicable under this section shall mean credited service performed with the City of Carson.

(4) The employer shall provide the board any information requested that the board determines is necessary to implement this section.

(b) This section applies only to the City of Carson and only with regard to an employee of the city who is first hired on or after January 1, 2014.

(Added by Stats. 2013, Ch. 244.)

§ 22894. Employer Contribution City of San Diego

(a) Notwithstanding any other provision of this part, the City of San Diego, the employees' exclusive representative, and unrepresented employees may agree that the employer contribution for postretirement health coverage shall be subject to the following:

(1) Credited years of service that the employee worked with the City of San Diego.

(2) A memorandum of understanding regarding postretirement health coverage mutually agreed upon through collective bargaining. This issue may not be subject to the impasse procedures set forth in Article 9 (commencing with Section 3548) of Chapter 10.7 of Division 4 of Title 1.

(b) This section is not applicable to any employee who retired before the effective date of the memorandum of understanding. In the event that the memorandum of understanding establishes a retroactive effective date, this section applies only prospectively and any employee who retires before the memorandum of understanding is signed may not be affected by it.

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(c) No agreement reached pursuant to subdivision (a) shall be valid if it provides an employer contribution for employees with less than 10 years of credited service with the City of San Diego.

(d) The City of San Diego shall provide, in the manner prescribed by the board, a notification of the agreement established pursuant to this section and any additional information necessary to implement this section.

(e) This section shall only apply to employees who are either of the following:

(1) Members of the San Diego Police Officers Association.

(2) Unclassified or unrepresented employees of the City of San Diego.

(Added by Stats. 2010, Ch. 600.)

§ 22895. Contract Option—School Employers

(a) Notwithstanding any other provision of this part, a school employer, the employees' exclusive representative, and unrepresented employees may agree that the employer contribution for postretirement health coverage shall be subject to the following:

(1) Credited years of service that the employee worked with the contracting agency.

(2) A memorandum of understanding regarding postretirement health coverage mutually agreed upon through collective bargaining. This issue may not be subject to the impasse procedures set forth in Article 9 (commencing with Section 3548) of Chapter 10.7 of Division 4 of Title 1.

(b) No agreement reached pursuant to subdivision (a) shall be valid if it imposes separate postretirement health coverage vesting requirements on employees in the same category and doing similar job duties.

(c) This section is not applicable to any employee who retired before the effective date of the memorandum of understanding. In the event that the memorandum of understanding establishes a retroactive effective date, this section applies only prospectively and any employee who retires before the memorandum of understanding is signed may not be affected by it.

(d) No agreement reached pursuant to subdivision (a) shall be valid if it provides an employer contribution for employees with less than five years of credited service with the school employer.

(e) The contracting agency shall provide, in the manner prescribed by the board, a notification of the agreement established pursuant to this section and any additional information necessary to implement this section.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22859.2 was added by Stats. 1995, Ch. 326; amended by Stats. 1998, Ch. 996.

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§ 22896. Employer Contribution—Sacramento Metropolitan Fire District

(a) Notwithstanding Section 22892, the percentage of employer contribution payable for postretirement health benefits for an employee of the Sacramento Metropolitan Fire District subject to this section shall, except as provided in subdivision (b), be based on the member's completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
5	25
6	30
7	35
8	40
9	45
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

The application of this subdivision shall be subject to the following:

(1) (A) In the case of the employees represented by a bargaining unit, the employer contribution with respect to each annuitant shall be determined pursuant to a memorandum of understanding approved through a meet and confer process pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1) with any recognized employee organization. The issue shall not be subject to the impasse procedures set forth in Article 9 (commencing with Section 3548) of Chapter 10.7 of Division 4 of Title 1.

(B) In the case of employees not represented by a bargaining unit, the employer contribution with respect to each annuitant shall be determined pursuant to a resolution adopted by a majority of the Sacramento Metropolitan Fire District Board of Directors and shall be in accordance with Section 7522.40.

(C) The employer contribution established by this paragraph shall not be less than the adjusted employer contribution required by subdivision (b) of Section 22892.

(2) The credited service of an employee for the purpose of determining the percentage of employer contributions applicable under this section shall mean state service as defined in Section 20069, except that at least five years of service shall have been performed entirely with the Sacramento Metropolitan Fire District.

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(3) The Sacramento Metropolitan Fire District shall provide, in the manner prescribed by the board, a notification of the agreement and resolution adopted pursuant to paragraph (1) and any additional information necessary to implement this section.

(4) The Sacramento Metropolitan Fire District shall certify to the board, in the case of employees not represented by a bargaining unit, that there is not an applicable memorandum of understanding.

(b) Notwithstanding subdivision (a), the contribution payable by the Sacramento Metropolitan Fire District shall be equal to 100 percent of the amount established pursuant to paragraph (1) of subdivision (a) on behalf of any annuitant who either:

(1) Retired for disability.

(2) Retired for service with 20 or more years of service credit entirely with the Sacramento Metropolitan Fire District, regardless of the number of days after separation from employment. The contribution payable by the Sacramento Metropolitan Fire District under this paragraph shall be paid only if it is greater than, and made in lieu of, a contribution payable to the annuitant by another employer under this part. The board shall establish application procedures and eligibility criteria to implement this paragraph.

(c) This section applies only to the Sacramento Metropolitan Fire District, or its successor. This section applies only with regard to the employees of the district hired on or after December 1, 2011.

(Added by Stats. 2013, Ch. 774.)

§ 22897. Employer Contribution—Specified School Employers

(a) Notwithstanding any other provision of this part, a contracting agency and the employees' exclusive representative may agree that the employer contribution for postretirement health benefit coverage for an employee subject to this section shall be based on the employee's completed years of service credited with the contracting agency at retirement, with the contracting agency paying no employer contribution for the first 15 years of that credited service and paying 100 percent of the employer contribution for employees with credited service of 15 years or more.

This section applies only to the North Orange County Community College District and the Riverside County Superintendent of Schools, only with regard to the employees of those agencies who are first hired on or after July 1, 1993.

(b) An agreement entered into pursuant to subdivision (a) shall provide that the employer contribution for a part-time employee, with 20 years or more of credited service with the contracting agency, shall be 100 percent of the employer contribution.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22859.1 was added by Stats. 1993, Ch. 58, effective 6/30/93.

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§ 22898. Employer Contribution—Alameda County Transportation Improvement Authority

(a) Notwithstanding any other provision of this part, the percentage of employer contribution payable for postretirement health benefits for an employee of the Alameda County Transportation Improvement Authority shall, except as provided in subdivision (b), be based on the employee's completed years of credited service, provided that the Alameda County Transportation Improvement Authority shall not pay an employer contribution for the first five years of that credited service, and shall pay thereafter as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
5	50
6	55
7	60
8	65
9	70
10	75
11	80
12	85
13	90
14	95
15	100

The application of this subdivision shall be subject to the following:

(1) The employer contribution with respect to each annuitant shall be adjusted by the employer each year. Those adjustments shall be based upon the principle that the employer contribution for each annuitant may not be less than the amount equal to 100 percent of the weighted average of the health benefits plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest agency enrollment, excluding family members, during the previous benefit year. For each annuitant with enrolled family members, the employer shall not pay an additional contribution.

(2) The employer shall certify to the board, in the case of employees not represented by a bargaining unit, that there is not an applicable memorandum of understanding.

(3) The credited service of an annuitant for the purpose of determining the percentage of employer contributions applicable under this section shall mean state service as defined in Section 20069, except that at least five years of credited service shall have been performed with the Alameda County Transportation Improvement Authority.

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(4) The employer shall provide the board any information requested that the board determines is necessary to implement this section.

(b) Notwithstanding subdivision (a), the contribution payable by the employer subject to this section shall be equal to 100 percent of the amount established pursuant to paragraph (1) of subdivision (a) on behalf of any annuitant who either:

(1) Retired for disability.

(2) Retired for service with 15 or more years of service credit entirely with that employer, regardless of the number of days after separation from employment. The contribution payable by the employer under this paragraph shall be paid only if it is greater than, and made in lieu of, a contribution payable to the annuitant by another employer under this part. The board shall establish application procedures and eligibility criteria to implement this paragraph.

(c) This section applies only to the Alameda County Transportation Improvement Authority, or its successor, and only with regard to the employees of the agency who are first hired on or after October 1, 2004.

(Added by Stats. 2009, Ch. 320; amended by Stats. 2010, Ch. 328.)

§ 22899. Remitting Contributions

(a) The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due. The contributions shall be credited to the Public Employees' Contingency Reserve Fund as specified by Section 22910.

(1) Deferrals or contributions paid by a contracting agency shall be paid through an electronic funds transfer method prescribed by the board. This payment requirement is effective upon declaration by the board.

(2) A contracting agency that is unable, for good cause, to comply with paragraph (1), may apply to the board for a waiver that allows the agency to pay in an alternate manner as prescribed by the board, but not by credit card payment.

(3) For the purpose of this subdivision, "electronic funds transfer" has the same meaning as that set forth in Section 20027.5.

(b) A county superintendent of schools shall draw requisitions against the county school service fund and the funds of the respective school districts for the amount equal to the total of the employer contributions and the employee contributions deducted from compensation paid from those funds. The amounts shall be deposited in the county treasury to the credit of the contract retirement fund established pursuant to Section 20617. The county superintendent thereafter shall draw his or her requisitions against the fund in favor of the board which, when allowed by the county auditor, shall constitute warrants against the fund and shall forward the warrants to the board in accordance with this section.

(c) If a contracting agency fails to remit the contributions when due, the agency may be assessed interest at an annual rate of 10 percent and the costs of collection,

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including reasonable legal fees, when necessary to collect the amounts due. In the case of repeated delinquencies, the contracting agency may be assessed a penalty of 10 percent of the delinquent amount. That penalty may be assessed once during each 30-day period that the amount remains unpaid. Additionally, the contracting agency may be required to deposit one-month's premium as a condition of continued participation in the program.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2009, Ch. 118.)

Note: Former Section 22832 was added by Stats. 1967, Ch. 1455; amended by Stats. 1971, Ch. 1165, operative 4/1/72; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1987, Ch. 1129, effective 9/25/87; by Stats. 1997, Ch. 951; and by Stats. 2002, Ch. 898.

§ 22900. Employer Contribution—Mariposa County

(a) Notwithstanding any other provision of this part, the County of Mariposa and the employees' exclusive representative may agree that the employer contribution for health coverage shall be subject to the following:

(1) In the case of employees represented by a bargaining unit, a memorandum of understanding regarding health coverage, mutually agreed upon through collective bargaining, or, in the case of employees not represented by a bargaining unit, a resolution adopted by a majority of the county board of supervisors, providing as follows:

(A) Establishing the amount of its employer contribution for its annuitants or employees at any amount equal to or above that of the adjusted employer contribution required by subdivision (b) of Section 22892.

(B) Providing an employer contribution amount for annuitants that is higher than the employer contribution provided for employees, except that any employer contribution may not be less than the adjusted employer contribution required by subdivision (b) of Section 22892. This subparagraph shall only apply to an employee who retired before the effective date of the memorandum of understanding or resolution adopted pursuant to subdivision (a). If the memorandum of understanding or resolution establishes a retroactive effective date, this subparagraph shall apply only prospectively, and any employee who retires before the memorandum of understanding is signed or the resolution is adopted shall be subject to this subparagraph.

(2) This subdivision shall not affect the obligations or benefits of either the annuitants or the county that exist at the time of the enactment of this section.

(b) The County of Mariposa shall provide, in the manner prescribed by the board, a notification of the agreement established pursuant to this section and any additional information necessary to implement this section.

(Added by Stats. 2012, Ch. 836.)

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§ 22901. Contributions to Public Employees' Contingency Reserve Fund

Each contracting agency shall contribute to the Public Employees' Contingency Reserve Fund, an amount sufficient to bear all of the administrative costs incurred by the board in providing to the employees and annuitants of that agency the health benefits provided by this part. The amount of the contributions required by this section shall be determined by the board and may include an appropriate share of overhead costs of the program. A contracting agency shall, in addition, contribute to the fund for each of its employees and annuitants the same amount as is required of the state under paragraph (2) of subdivision (b) of Section 22885.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22831 was added by Stats. 1967, Ch. 1455; and amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80.

§ 22902. Employer Contribution—Bay Area Rapid Transit District

(a) For the purposes of this section, the term "district" shall mean the San Francisco Bay Area Rapid Transit District.

(b) Notwithstanding any other provision of this part, the district may make contributions for postretirement health benefits for its unrepresented employees, including members of the district board of directors to the extent that they are eligible for contributions under existing law, and members of any unit of employees whose terms and conditions of employment are determined through collective bargaining. Those contributions shall be subject to the following:

(1) Credited years of service that the employee worked with the district.

(2) An agreement with all represented employees regarding postretirement health coverage mutually agreed upon through collective bargaining.

(3) Contributions for postretirement health benefits for the district's unrepresented employees, including members of the district board of directors to the extent that they are eligible for contributions under existing law, may only be made in accordance with the eligibility criteria and schedule below.

(c) An agreement reached pursuant to subdivision (b) shall provide that employer contributions for postretirement health benefits for employees shall be made in the following percentages for the applicable credited years of service:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	60
12	70
13	80
14	90
15	100

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(d) An agreement reached pursuant to subdivision (b) shall authorize full employer contributions for postretirement health benefits for those employees who retire for disability with five years of credited service with the district.

(e) (1) This section shall only apply to district employees first hired on or after January 1, 2014, and to directors who first serve as a director on or after January 1, 2014.

(2) This section shall apply to employees whose terms and conditions of employment are determined through collective bargaining only if the agreement is expressly incorporated by reference into, or made a part of, a memorandum of understanding.

(f) This section is not applicable to any employee who retires before the effective date of the memorandum of understanding referenced in paragraph (2) of subdivision (e). In the event that the memorandum of understanding establishes a retroactive effective date, this section shall apply only to retirements occurring on or after the effective date of this section.

(g) The district shall provide, in the manner prescribed by the board, a notification of each agreement established pursuant to this section or personnel action incorporating or applying this section, and any additional information necessary to implement this section.

(Added by Stats. 2014, Ch. 216.)

§ 22903. Repealed

(Repealed by Stats. 2005, Ch. 418.)

§ 22903.5. Repealed

(Repealed by Stats. 2005, Ch. 418.)

§ 22905. Compliance with Standards

Any person or entity subject to the requirements of this chapter shall comply with the standards set forth in Chapter 7 (commencing with Section 3750) of Part 1 of Division 9 of the Family Code and Section 14124.94 of the Welfare and Institutions Code.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: See note to Section 22889 for history of former Section 22825.14.

ARTICLE 9. MAINTENANCE OF FUND

§ 22910. Public Employees' Contingency Reserve Fund

(a) There shall be maintained in the State Treasury the Public Employees' Contingency Reserve Fund. The board may invest funds in the Public Employees'

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Contingency Reserve Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) (1) An account shall be maintained within the Public Employees' Contingency Reserve Fund with respect to the health benefit plans the board has approved or that have entered into a contract with the board. The account shall be credited, from time to time and in amounts as determined by the board, with moneys contributed under Section 22885 or 22901 to provide an adequate contingency reserve. The income derived from any dividends, rate adjustments, or other funds received from a health benefit plan shall be credited to the account. The board may deposit, in the same manner as provided in paragraph (4), up to one-half of 1 percent of premiums in the account for purposes of cost containment programs, subject to approval as provided in paragraph (2) of subdivision (c).

(2) The account for health benefit plans may be utilized to defray increases in future rates, to reduce the contributions of employees and annuitants and employers, to implement cost containment programs, or to increase the benefits provided by a health benefit plan, as determined by the board. The board may use penalties and interest deposited pursuant to subdivision (c) of Section 22899 to pay any difference between the adjusted rate set by the board pursuant to Section 22864 and the applicable health benefit plan contract rates.

(3) The total credited to the account for health benefit plans at any time shall be limited, in the manner and to the extent the board may find to be most practical, to a maximum of 10 percent of the total of the contributions of the employers and employees and annuitants in any fiscal year. The board may undertake any action to ensure that the maximum amount prescribed for the fund is approximately maintained.

(4) Board rules and regulations adopted pursuant to Section 22831 to minimize the impact of adverse selection or contracts entered into pursuant to Section 22864 to implement health benefit plan performance incentives may provide for deposit in and disbursement to carriers or to Medicare from the account the portion of the contributions otherwise payable directly to the carriers by the Controller under Section 22913 as may be required for that purpose. The deposits shall not be included in applying the limitations, prescribed in paragraph (3), on total amounts that may be deposited in or credited to the fund.

(5) Notwithstanding Section 13340, all moneys in the account for health benefit plans are continuously appropriated without regard to fiscal year for the purposes provided in this subdivision.

(c) (1) An account shall also be maintained in the Public Employees' Contingency Reserve Fund for administrative expenses consisting of funds deposited for this purpose pursuant to Sections 22885 and 22901.

(2) The moneys deposited pursuant to Sections 22885 and 22901 in the Public Employees' Contingency Reserve Fund may be expended by the board for administrative purposes, provided that the expenditure is approved by the Department of Finance and the Joint Legislative Budget Committee in the manner

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provided in the Budget Act for obtaining authorization to expend at rates requiring a deficiency appropriation, regardless of whether the expenses were anticipated.

(d) An account shall be maintained in the Public Employees' Contingency Reserve Fund for the contributions required pursuant to Section 22870. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. This subdivision shall not apply to state administrative costs, which shall continue to be subject to Section 13340.

(e) An account shall be maintained in the Public Employees' Contingency Reserve Fund for the contributions required pursuant to Section 22890 and for payments made pursuant to subdivision (f) of Section 22850. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. Penalties and interest paid pursuant to subdivision (c) of Section 22899 shall be deposited in the account pursuant to paragraphs (1) and (2) of subdivision (b).

(f) Accounts shall be maintained in the Public Employees' Contingency Reserve Fund for complementary annuitant premiums and related administrative expenses paid by annuitants pursuant to Section 22802. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, to reimburse the Public Employees' Retirement Fund, the Judges' Retirement Fund, the Judges' Retirement Fund II, and the Legislators' Retirement Fund, as applicable, for payment of annuitant health premiums, and for the payment of premiums and other charges to carriers or to the Public Employees' Health Care Fund. Administrative expenses deposited in this account shall be credited to the account provided by subdivision (c).

(g) Amounts received by the board for retiree drug subsidy payments that are attributed to contracting agencies and their annuitants and employees pursuant to subdivision (c) of Section 22910.5 shall be deposited in the Public Employees' Contingency Reserve Fund. Notwithstanding Section 13340, these amounts are continuously appropriated, without regard to fiscal year, for the payment of premiums, costs, contributions, or other benefits related to contracting agencies and their employees and annuitants, and as consistent with the Medicare Prescription Drug Improvement and Modernization Act, as amended.

(h) The Account for Retiree Drug Subsidy Payments is hereby established in the Public Employees' Contingency Reserve Fund and funds in that account shall, upon appropriation by the Legislature, be used for the purposes described in Section 22910.5.

(i) Notwithstanding any other law, the Controller may use the moneys in the Public Employees' Contingency Reserve Fund for loans to the General Fund as provided in Sections 16310 and 16381. However, interest shall be paid on all moneys loaned to the General Fund from the Public Employees' Contingency

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Reserve Fund. Interest payable shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which loaned. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the Public Employees' Contingency Reserve Fund was created.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2007, Ch. 179, urgency effective 8/24/07; by Stats. 2009, Ch. 9; by Stats. 2010, Ch. 639; and by Stats. 2014, Ch. 28, effective 6/20/2014.)

Note 1: Former Section 22827.5 was added by Stats. 1989, Ch. 548; amended by Stats. 1990, Ch. 658, effective 9/12/90; and by Stats. 2000, Ch. 1002.

Note 2: Former Section 22840 was added by Stats. 1961, Ch. 1236; amended by Stats. 1965, Ch. 1474; by Stats. 1967, Ch. 1455; by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and by Stats. 1991, Ch. 892, effective 10/14/91; repealed and added by Stats. 2002, Ch. 898; and amended by Stats. 2003, Ch. 751.

Note 3: Stats. 2002, Ch.898, also contains the following provision:

SEC. 19. The Board of Administration of the Public Employees' Retirement System shall submit to the Joint Legislative Budget Committee an annual report, not later than February 1 of each year, concerning the utilization of funds for cost containment pursuant to Section 22840 of the Government Code. The report shall include the amount deposited in the Public Employees' Contingency Reserve Fund for this purpose, the objectives of any expenditure, and an assessment of whether the objectives were met.

§ 22910.5. Public Employees' Contingency Reserve Fund—Public Employer's Medicare Retiree Drug Subsidy

(a) For purposes of this section, the following definitions shall apply:

(1) "Local annuitant" means an annuitant other than a state annuitant.

(2) "Local employee" means an employee other than a state employee.

(3) "Retiree drug subsidy" means those amounts described in Section 423.886 of Title 42 of the Code of Federal Regulations.

(4) "State annuitant" means an annuitant who is retired from service with the state, including the California State University.

(5) "State employee" means an employee who is in the employment of the state, including the California State University.

(b) For purposes of applying for and receiving funds as part of a retiree drug subsidy, the board is designated as the sponsor of a qualified retiree prescription drug plan for a state or contracting agency plan, or a related plan, or an individual if both of the following apply:

(1) The system applies for a retiree drug subsidy related to the plan or individual.

(2) The system meets the definition of a plan sponsor as described in Section 1395w-132(c) of Title 42 of the United States Code.

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(c) When the board performs the duties described in subdivision (b) related to, or applies for funds attributable to, a retiree drug subsidy for a contracting agency plan, local annuitant, or local employee, the board shall take all necessary steps to ensure that any funds received by the board shall be deposited in the Public Employees' Contingency Reserve Fund as described in subdivision (g) of Section 22910.

(d) When the board performs the duties described in subdivision (b) related to, or applies for funds attributable to, a retiree drug subsidy for a state plan, state annuitant, state employee, or state employee association health benefit plan, the board shall take all necessary steps to deposit these funds in the Account for Retiree Drug Subsidy Payments as described in subdivision (h) of Section 22910.

(e) Notwithstanding any other law, all funds received by the board as a result of a retiree drug subsidy application attributable to a state employee or state annuitant, or the eligible dependent, beneficiary, or similarly situated person of that state employee or state annuitant, shall be deposited in the Account for Retiree Drug Subsidy Payments, as described in subdivision (h) of Section 22910.

(f) Notwithstanding any other law, funds from the Account for Retiree Drug Subsidy Payments that is maintained in the Public Employees' Contingency Reserve Fund shall be appropriated by the Legislature in the annual Budget Act for the purposes described in this section. The Legislature shall, in the annual Budget Act, specify how these funds are to be used, consistent with the federal Medicare Prescription Drug Improvement and Modernization Act, as amended, including the following purposes:

(1) Reducing the contributions by the state from the General Fund or other funds in the State Treasury for health benefits that include prescription drug benefits for state annuitants.

(2) Reducing contributions by state annuitants for their health benefits that include prescription drug benefits.

(3) Defraying increases in future employer or state annuitant health benefit or prescription drug rates.

(4) Implementing cost containment programs related to state annuitant health benefits that include prescription drug benefits.

(5) Increasing state annuitant health benefits or prescription drug benefits.

(Added by Stats. 2007, Ch. 179, urgency effective 8/24/07; amended by Stats. 2014, Ch. 28, effective 6/20/2014.)

§ 22911. Public Employees' Health Care Fund

(a) There shall be maintained in the State Treasury the Public Employees' Health Care Fund to fund the health benefit plans administered or approved by the board. The board may invest funds in the Public Employees' Health Care Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) The Public Employees' Health Care Fund shall consist of the following:

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(1) Any self-funded or minimum premium plan premiums paid by contracting agencies, the state and enrolled employees, annuitants, and family members, including premiums paid directly for continuation coverage authorized under the Consolidated Omnibus Budget Reconciliation Act, and as authorized by this part.

(2) Any reserve moneys from terminated health benefit plans designated by the board.

(3) Any moneys from a health benefit plan for risk adjustment pursuant to Section 22864.

(c) Income earned on the Public Employees' Health Care Fund shall be credited to the fund.

(d) Notwithstanding Section 13340, the Public Employees' Health Care Fund is continuously appropriated, without regard to fiscal years, to pay benefits and claims costs, the costs of administering self-funded or minimum premium health benefit plans, refunds to those who made direct premium payments, and other costs as the board may determine necessary, consistent with its fiduciary duty.

(e) The Legislature finds and declares that the Public Employees' Health Care Fund is a trust fund held for the exclusive benefit of enrolled employees, annuitants, family members, the self-funded plan administrator, and those contracting to provide medical and hospital care services.

(f) Notwithstanding subdivisions (d) and (e), the board may use reserves generated by one or more self-funded health benefit plans for risk adjustment programs and procedures pursuant to paragraph (3) of subdivision (f) of Section 22850 and paragraph (5) of subdivision (b) of Section 22864.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2012, Ch. 445.)

Note: Former Section 22840.2 was added by Stats. 1987, Ch. 1129, effective 9/25/87; amended by Stats. 1991, Ch. 892, effective 10/14/91; by Stats. 2002, Ch. 898; and by Stats. 2003, Ch. 62.

§ 22913. Payment of Premiums

(a) The Controller shall suitably identify and remit the state's contribution for each employee or annuitant monthly to the Public Employees' Contingency Reserve Fund, together with amounts authorized by the employees and annuitants to be deducted from their salaries or retirement allowances for payment of the employee contribution.

(b) The contributions of employees and annuitants of contracting agencies and the contributions of contracting agency employers shall be suitably identified and remitted monthly to the Public Employees' Contingency Reserve Fund by warrant of the Controller upon claims filed by the board.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2014, Ch. 28, effective 6/20/2014.)

Note 1: Former Section 22841 (relative to subdivisions (a) and (b)) was added by Stats. 1961, Ch. 1236; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; and

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by Stats. 1987, Ch. 1129, effective 9/25/87.

Note 2: Former Section 22842 (relative to subdivision (c)) was added by Stats. 1967, Ch. 1455; amended by Stats. 1979, Ch. 1110, effective 9/28/79, operative 1/1/80; by Stats. 1987, Ch. 1129, effective 9/25/87; and by Stats. 2002, Ch. 898.

§ 22915. Vision Care Benefits Fund

There is in the State Treasury the State Annuitants' Vision Care Benefits Fund that is, upon appropriation by the Legislature, available to the board for expenditure solely for the provision of vision care benefits to state annuitants pursuant to this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22790.5 was added by Stats. 1990, Ch. 1677, effective 1/1/91, operative 8/1/91.

ARTICLE 10. CONTRACTING WITH PUBLIC AGENCIES

§ 22920. Contracting Agency Eligibility

The following entities are eligible to obtain a health benefit plan, as defined in Section 22777, subject to board approval:

(a) A contracting agency, as defined in Section 20022, a county or special district subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and a school employer.

(b) A public body or agency of or within the state that is not subject to Part 3 (commencing with Section 20000) of the Government Code or the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and that provides a retirement system for its employees funded wholly or in part by public funds.

(c) The protection and advocacy agency described in subdivision (h) of Section 4900 of the Welfare and Institutions Code, if the agency obtains a written advisory opinion from the United States Department of Labor stating that the organization is an agency or instrumentality of the state or a political subdivision thereof within the meaning of Chapter 18 (commencing with Section 1001) of Title 29 of the United States Code.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2013, Ch. 778.)

Note: See Note 1 to Section 22760 for history of former Section 22754.

§ 22922. Resolutions

(a) A contracting agency and its employees and annuitants may obtain a health benefit plan, as defined in Section 22777, subject to board approval of a resolution submitted by the governing body electing to be so subject. The

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resolution shall be adopted by a majority vote and shall be effective at the time provided in board regulations.

(b) In addition to, or in lieu of, submitting a resolution as prescribed in subdivision (a), the board may require the contracting agency to enter into a contract with the board to obtain a health benefit plan, as defined in Section 22777, for all or part of its employees, pursuant to rules and regulations developed by the board for this purpose.

(c) The board may refuse to contract with, or to agree to an amendment proposed by, a contracting agency for any benefit provisions that are not specifically authorized by this part and that the board determines would adversely affect the administration of this system.

(d) A contracting agency may become subject to this part with respect to a recognized employee organization with which it has reached mutual agreement. The resolution and any contracts, or the resolution and contract required by subdivisions (a) and (b), shall specify the recognized employee organizations participating in this system.

(e) Pursuant to Section 22796 and subdivision (g) of Section 22934, the board may by regulation require any contracting agency that becomes subject to this part to meet certain board-determined criteria, including, but not limited to, additional requirements for any contracting agency that elects to become subject to this part that previously terminated coverage pursuant to Section 22938.

(f) Approval of the contract to obtain a health benefit plan pursuant to subdivision (b) shall be by the affirmative vote of a majority of the members of the governing body of the contracting agency.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2013, Ch. 778.)

Note 1: Former Section 22850 (relative to subdivisions (a) and (c)) was added by Stats. 1967, Ch. 1455; amended by Stats. 1968, Ch. 858; and by Stats. 2003, Ch. 751.

Note 2: Former Section 22850.3 (relative to subdivision (b)) was added by Stats. 1984, Ch. 1403; and amended by Stats. 1986, Ch. 199, effective 6/27/86.

§ 22927. City and County Employees

Notwithstanding any other provision of this part, a contracting agency that is a city and county shall be subject to this part only with respect to employees who upon entering city and county employment from state employment had an option under state statutes to continue enrollment under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22850.1 was added by Stats. 1972, Ch. 911, effective 8/15/72.

§ 22928. Hospital Employees

When a hospital becomes a contracting agency pursuant to subdivision (p) of Section 20057, its employees shall be deemed city employees for purposes of this

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part until the hospital enacts its own resolution or acts officially to terminate its participation under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22850.2 was added by Stats. 1979, Ch. 103, effective 6/8/79; and amended by Stats. 1997, Ch. 951.

§ 22929. Repealed

(Repealed by Stats. 2005, Ch. 418.)

§ 22930. Specialized Health Benefit Plan

If the board administers a specialized health benefit plan, it may offer coverage in the specialized health benefit plan to a contracting agency that also provides coverage for its employees in a health benefit plan under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22850.5 was added by Stats. 1991, Ch. 281.

§ 22931. Former Certificated Employees

Annuitants that receive benefits under this part and are former certificated employees that retired from a school employer, including the spouses and surviving spouses, are not subject to Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of Division 1 of the Education Code. The school employer is also not subject to Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of Division 1 of the Education Code with respect to those annuitants.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22858 was added by Stats. 1986, Ch. 1280.

§ 22932. Reports and Information

A contracting agency shall perform the functions necessary to enroll its employees and submit reports as may be required by the board. A county superintendent of schools shall have the responsibility of providing all information concerning the school districts within his or her jurisdiction to the board.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22851 was added by Stats. 1967, Ch. 1455; and amended by Stats. 1971, Ch. 1165, operative 4/1/72.

§ 22934. Alternative Health Benefit Plans

(a) A contracting agency that has elected to be subject to this part may not maintain any other health benefit plan or program offering hospital and medical care for its employees.

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(b) Notwithstanding subdivision (a), a plan operating on July 1, 2002, shall be permitted to continue as long as it meets the requirements of subdivision (e). A material change in the plan, including a change in carriers, shall be permitted. Notwithstanding any other provision of this part, a contracting agency may include a dependent of an employee or retiree who is not eligible for coverage as a family member or a domestic partner, as provided in this part, if the employee or retiree is also enrolled in the alternative plan.

(c) Notwithstanding subdivision (a), a self-insured plan operating on January 1, 2003, shall be permitted to continue as long as it meets the requirements of subdivision (e). The board may extend the deadline contained in this subdivision for good cause.

(d) Notwithstanding subdivision (a), an alternative plan established by a contracting agency and approved by the board after July 1, 2002, shall be permitted to continue until December 31, 2004.

The plan may only be offered in an area in which there is no board-approved health maintenance organization or exclusive provider organization plan available for enrollment, or there is only one board-approved health maintenance organization plan available for enrollment, and that plan has less than 55 percent of the primary care physicians in its provider network available for new patients. The contracting agency shall reimburse the board for reasonable administrative expenses incurred as a result of enrollment activities outside of the system's open enrollment period caused by the creation or termination of a plan offered pursuant to this subdivision. A contracting agency providing a plan pursuant to this subdivision shall notify the board by June 1, 2004, of its intent to either terminate that plan or to terminate its participation under this part as of January 1, 2005. On or after June 1, 2004, the board may extend the termination date contained in this subdivision for a contracting agency at its discretion, based on compelling circumstances in the region in which the contracting agency is located.

(e) A plan maintained pursuant to this section shall meet and maintain the minimum standards for approved health benefit plans prescribed by the board pursuant to the requirements of this part.

(f) An election of a contracting agency to be subject to this part is not effective prior to the termination of any health benefit plan maintained in violation of this section. The establishment of any plan thereafter in violation of this section shall terminate participation of the agency and all of its employees under this part as of the end of the contract year.

(g) Nothing in this part may be construed to prohibit a contracting agency from offering health plans, including collectively bargained union health and welfare trust plans, to employees and annuitants of employee groups, including collective bargaining units, if the contracting agency has not elected to provide coverage for that group under this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22852 was added by Stats. 1967, Ch. 1455; amended by Stats. 1971, Ch.

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1165; by Stats. 1973, Ch. 462; by Stats. 1974, Ch. 1035; and by Stats. 2002, Ch. 898.

§ 22937. Election to Participate in Medicare Reimbursement Program

A contracting agency may elect, by amending its contract with the board, to participate in a Medicare reimbursement program for its employees, annuitants, or family members who are enrolled in a Medicare health benefit plan under this part, as prescribed by board regulations.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22859 was added by Stats. 1986, Ch. 1280; amended by Stats. 1991, Ch. 749; and by Stats. 2002, Ch. 898.

§ 22938. Election to Terminate Participation

A contracting agency that has elected to be subject to this part may elect to cease to be so subject by resolution adopted by a majority vote of its governing body and filed with the board on or before the deadline provided in board regulations, to be effective at the end of the current contract year. Coverage of employees and annuitants of the contracting agency shall also terminate at the end of the current contract year.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22853 was added by Stats. 1967, Ch. 1455; and amended by Stats. 1970, Ch. 356.

§ 22939. Termination of Participation

The board may terminate the participation of a contracting agency if it fails for three months after a demand to perform any act required by this part or by board rules or regulations.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22854 was added by Stats. 1967, Ch. 1455; and amended by Stats. 2002, Ch. 898.

ARTICLE 11. PREFUNDING PLAN FOR HEALTH CARE COVERAGE FOR ANNUITANTS

§ 22940. Annuitant's Health Care Coverage Fund

There is in the State Treasury the Annuitants' Health Care Coverage Fund that is a trust fund and a retirement fund, within the meaning of Section 17 of Article XVI of the California Constitution. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years to the board for expenditure for the prefunding of health care coverage for annuitants pursuant to this part, including administrative costs. The board has sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund and shall make investments pursuant to Part 3 (commencing with Section 20000).

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(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2007, Ch. 318.)

Note: Former Section 22880 was added by Stats. 1988, Ch. 331, effective 7/14/88.

§ 22942. Definitions

For purposes of this article, the following definitions shall apply:

(a) "Annuitant" means any of the following:

(1) An annuitant described in Section 22760.

(2) A person who retires from employment with an employer described in paragraph (2) of subdivision (c) and who receives postemployment health care benefits or other postemployment benefits from the prefunding plan provided by that employer.

(3) A surviving family member who receives postemployment health care benefits or other postemployment benefits as a beneficiary of a deceased person described in paragraph (2).

(b) "Employee" means an employee described in Section 22772. "Employee" also means an officer or employee of an employer described in paragraph (2) of subdivision (c).

(c) "Employer" means either of the following:

(1) An employer described in Section 22773.

(2) An entity described in Section 22920 that has one or more employees and that entity provides postemployment health care benefits or other postemployment benefits to annuitants.

(Added by Stats. 2007, Ch. 318.)

§ 22943. Election by Employer

An employer authorized by the board may elect to participate in the prefunding plan established by this article.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended and renumbered by Stats. 2007, Ch. 318.)

Note: Former Section 22882 was added by Stats. 1988, Ch. 331, effective 7/14/88.

§ 22944. Participation—Terms and Conditions

The board may, in its discretion and upon terms and conditions set by the board, authorize an employer to participate in the prefunding plan established by this article. The governing body of a participating employer shall enter into a contract with the board, setting forth the terms and conditions of that employer's participation in the prefunding plan, including, but not limited to, funding, expenditures, and actuarial, accounting, reporting, and investment considerations.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; repealed and added by Stats. 2007, Ch. 318.)

Note: Former Section 22883 was added by Stats. 1988. Ch. 331, effective 7/14/88.

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§ 22944.2. Participation—Obligations Between Employers and Annuitants

(a) A contract entered into between an employer and the board pursuant to Section 22944 shall not create, change, or vest the obligations of an employer or the board that were created under any other contract, law, ordinance, regulation, or similar actions to provide benefits for employees or annuitants of a participating employer.

(b) A contract between an employer and the board entered into pursuant to Section 22944, in and of itself, shall not create, change, or vest an obligation for either party to the contract to provide a specific level of postemployment health care benefits or other postemployment benefits to employees or annuitants of a participating employer.

(c) A contract between an employer and the board entered into pursuant to Section 22944, in and of itself, shall not preclude or in any way affect the authority of the employer to create, change, or vest the specific postemployment health care benefits or other postemployment benefits that the employer may choose to provide to its employees or annuitants.

(Added by Stats. 2007, Ch. 318.)

§ 22944.3. Postemployment Health Care Benefits for Patrol Members

(a) Any amount that would otherwise be used to permanently increase compensation pursuant to Section 19827, effective on July 1, 2009, and on July 1, 2010, shall instead be used to permanently prefund postemployment health care benefits for patrol members. The amount used to prefund benefits relative to any increases under the survey methodology effective July 1, 2010, shall not exceed 2 percent. The state shall take credit for these prefunding contributions in the survey methodology established in Section 19827 in the same manner as it would for an increase to the base salary for patrol members.

(b) Patrol members shall contribute an additional 0.5 percent of base pay toward prefunding retiree health benefit obligations effective on the first day of the pay period following the effective date of the act adding this section and the ratification of the addendum by the members of State Bargaining Unit 5. This contribution shall not reduce the base salary of patrol members under the survey methodology established by Section 19827.

(c) Effective July 1, 2012, the state shall contribute toward prefunding retiree health benefits, on a prospective basis, an amount at least equal to the combined contribution rate established pursuant to subdivisions (a) and (b). These contributions may be used in the survey methodology established by Section 19827 if mutually agreed in a memorandum of understanding.

(d) Contributions paid pursuant to this section shall be used exclusively for the cost of providing postemployment health care to eligible enrolled patrol member annuitants and their eligible enrolled dependents, beneficiaries, and survivors.

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(e) Contributions paid pursuant to this section shall not be refundable under any circumstances to a patrol member or his or her beneficiary or survivor.

(f) Any amount used to prefund postemployment health care for patrol members pursuant to subdivision (a) shall not be included in any calculation for benefits using final compensation.

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

(h) For purposes of this section, "patrol member" has the same meaning as in Section 20390. This section shall not apply to an employee of a county.

(i) The Director of Human Resources may exercise his or her discretion to apply the provisions of this section to patrol members who are excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(Added by Stats. 2009, Ch. 188; amended by Stats. 2011, Ch. 25, effective 5/16/11; and by Stats. 2012, Ch. 665.)

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Chapter 2. Recovery of Medical Costs

SECTION		SECTION	
§ 22945.	Purpose	§ 22947.	Assertion of Liens
§ 22946.	Definitions for Chapter	§ 22948.	Jurisdiction over Liens

§ 22945. Purpose

(a) The purpose of this chapter is to establish the rights of the California Association of Highway Patrolmen Health Benefits Trust, the Peace Officers Research Association of California Health Benefits Trust, and the California Correctional Peace Officer Association Health Benefits Trust to recover medical costs paid to a participant for injuries, including injuries that result in death, caused by or allegedly caused by a third party.

(b) This chapter does not apply if the participant is injured in the course and scope of his or her employment. In those cases, Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code governs.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22890 was added by Stats. 2001, Ch. 851.

§ 22946. Definitions for Chapter

As used in this chapter:

(a) "Health benefits trust" means the California Association of Highway Patrolmen Health Benefits Trust, the Peace Officers Research Association of California Health Benefits Trust, the California Correctional Peace Officers Association Health Benefits Trust, or a self-funded plan administered by the board under this part.

(b) "Participant" means an employee, annuitant, or family member who is a member of a health benefits trust and who is injured by, or due to the actions or inactions of, a third person, and includes any other person to whom a claim accrues by reason of the injury or death of the employee, annuitant, or family member.

(c) "Third party" means any tortfeasor or alleged tortfeasor against whom the participant asserts a claim for injury or death.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22891 was added by Stats. 2001, Ch. 851; and amended by Stats. 2002, Ch. 898.

§ 22947. Assertion of Liens

(a) A health benefits trust may assert a lien for health benefits paid on behalf of a participant against any settlement with, or arbitration award or judgment against, a third party. No lien asserted by a health benefits trust under this section may exceed the amount actually paid by the trust to any treating medical provider.

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(b) The participant, if not represented by an attorney, or the participant's attorney, shall immediately send, by certified mail, written notice of the existence of any claim or action against a third party, to the following:

(1) The health benefits trust.

(2) A hospital or any hospital-affiliated health facility, as defined in Section 1250 of the Health and Safety Code, that is known to have provided health care services to the participant.

(c) If medical costs are paid by the health benefits trust, contract providers may not assert an independent lien against the participant. Contract providers who agree, by contract, to a specified rate may not seek to recover an amount that exceeds the contracted rate against the participant.

This subdivision is not applicable to a lien for hospital services pursuant to Chapter 4 (commencing with Section 3045.1) of Title 14 of Part 4 of Division 3 of the Civil Code.

(d) If the participant engaged an attorney, the lien for health services asserted by a health benefits trust under subdivision (a) may not exceed the lesser of the actual amount paid by the trust or one-third of the moneys due to the participant under any final judgment, compromise, arbitration, or settlement agreement.

(e) If the participant did not engage an attorney, the lien for health services asserted by the health benefits trust under subdivision (a) may not exceed the lesser of the actual amount paid by the trust or one-half of the moneys due to the participant under any final judgment, compromise, arbitration, or settlement agreement.

(f) If a final judgment includes a special finding by a judge, jury, or arbitrator that the participant was partially at fault, the lien asserted by the health benefits trust shall be reduced by the same comparative fault percentage by which the participant's recovery was reduced.

(g) The lien asserted by the health benefits trust shall be subject to pro rata reduction, commensurate with the participant's reasonable attorney's fees and costs, in accordance with the common fund doctrine.

(h) The court or arbitrator may also take into account the obligation, if any, of the health benefits trust to make future medical payments on behalf of the participant for the medical condition that gave rise to the claim against the third party.

(i) The provisions of this section may not be admitted into evidence nor given in any instruction in any civil action or proceeding between a participant and a third party.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22892 was added by Stats. 2001, Ch. 851.

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§ 22948. Jurisdiction over Liens

(a) A court or arbitrator having jurisdiction over a claim by a participant against a third party shall additionally have jurisdiction over apportionment of any recovery on the claim, if the participant and the health benefits trust or any other party asserting a lien cannot agree on an allocation.

(b) In the event of a settlement between the participant and the third party where there is no agreement on proper apportionment of the settlement between the participant and the health benefits trust or any other party asserting a lien, the participant may petition the court for a determination in accordance with this section. The parties may introduce evidence with respect to the issue of apportionment in any manner authorized by the Evidence Code, including, but not limited to, introduction by sworn declaration or by relevant discovery responses. The participant shall make available to the health benefits trust all relevant discovery in a reasonable and timely manner. The use of witness testimony shall be discouraged and shall be allowed only by stipulation of the parties.

(c) In the event of a judgment where there is no agreement on proper apportionment of the judgment between the participant and the health benefits trust or any other party asserting a lien, the participant may file a post-trial motion asking the court to apportion the judgment in accordance with this section.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22893 was added by Stats. 2001, Ch. 851.

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PART 6. STATE EMPLOYEES' DENTAL CARE ACT

SECTION		SECTION	
§ 22950.	Title	§ 22955.	CSU Employees' Dental Care Fund
§ 22951.	Purpose	§ 22956.	Eligibility of Annuitant
§ 22952.	Definitions	§ 22957.	Continuing Benefits
§ 22953.	Contracts	§ 22958.	Vesting for Postretirement Benefits
§ 22954.	State Employees' Dental Care Fund	§ 22959.	Administration

§ 22950. Title

This part may be cited as the State Employees' Dental Care Act.

(Added by Stats. 1980, Ch. 1039, effective 9/22/80; repealed and added by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 22951. Purpose

It is the purpose of this part to do all of the following:

(a) Promote increased economy and efficiency in the state service.

(b) Enable the state to attract and retain qualified employees by providing dental care plans similar to those commonly provided in private industry.

(c) Recognize and protect the state's investment in each permanent employee by promoting and preserving good health among state employees.

(Added by Stats. 1980, Ch. 1039, effective 9/22/80; repealed and added by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 22952. Definitions

Unless otherwise indicated, the definition of terms in Part 5 (commencing with Section 22750) apply to this part.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 22953. Contracts

(a) The state, through the Department of Human Resources, the Trustees of the California State University, or the Regents of the University of California may contract, upon negotiations with employee organizations, with carriers for dental care plans for employees, annuitants, and eligible family members, provided the carriers have operated successfully in the area of dental care benefits for a reasonable period or have a contract to provide a health benefit plan pursuant to Section 22850. The dental care plans may include a portion of the monthly premium to be paid by the employee or annuitant. Dental care plans provided under this authority may be self-funded by the employer if it is determined to be cost effective.

(b) An employee or annuitant may enroll in a dental care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the employee or annuitant is also enrolled in the health benefit plan provided by that

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carrier. However, nothing in this section may be construed to require an employee or annuitant to enroll in a dental care plan and a health benefit plan provided by the same carrier.

(c) No contract for a dental care plan may be entered into unless funds are appropriated by the Legislature in a subsequently enacted statute. If a dental care plan is self-funded, funds used for that plan shall be considered continuously appropriated, notwithstanding Section 13340.

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

Note: Former Section 22952 was added by Stats. 1980, Ch. 1039, effective 9/22/80; amended by Stats. 1982, Ch. 825; by Stats. 1986, Ch. 908; and by Stats. 1992, Ch. 447, effective 8/6/92. Former Section 22957 was added by Stats. 1982, Ch. 825.

§ 22954. State Employees' Dental Care Fund

Funds appropriated for self-funded dental care plans for state employees, other than employees of the California State University, shall be maintained in the State Employees' Dental Care Fund which is hereby created in the State Treasury. Moneys in this fund shall be used by the Department of Human Resources to pay dental claims and other administrative costs. Income earned on the moneys in the State Employees' Dental Care Fund shall be credited to the fund. Moneys in this fund are continuously appropriated in accordance with this section and Section 22953.

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

Note: Former Section 22952.1 was added by Stats. 1986, Ch. 908.

§ 22955. CSU Employees' Dental Care Fund

Funds appropriated for self-funded dental care plans for employees of the California State University shall be maintained in the California State University Employees' Dental Care Fund, which is hereby created in the State Treasury. Moneys in this fund shall be used by the Trustees of the California State University to pay dental claims and other administrative costs. Income earned on the moneys in the California State University Employees' Dental Care Fund shall be credited to the fund. Moneys in this fund are continuously appropriated in accordance with this section and Section 22953.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22952.2 was added by Stats. 1986, Ch. 908.

§ 22956. Eligibility of Annuitant

(a) An annuitant who retires from the state may enroll in a dental care plan offered under this part, provided either of the following apply:

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(1) The annuitant is not enrolled in a health benefit plan or a dental care plan, but was eligible for enrollment as an employee at the time of separation for retirement, and who retired within 120 days of the date of separation.

(2) The annuitant is receiving an allowance pursuant to Article 6 (commencing with Section 9359) of Chapter 3.5 of Part 1 of Division 2.

(b) The board has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide names or addresses to any person, agency, or entity for the purpose of notifying those annuitants.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22953 was added by Stats. 1983, Ch. 1165.

§ 22957. Continuing Benefits

A person who was enrolled in a dental care plan at the time he or she became an annuitant under state or federal provisions, may continue his or her enrollment, including eligible family members, without discrimination as to premium rates or benefit coverage. The dental care plans may require part of a monthly premium to be paid by the annuitant, not to exceed the premium paid by represented or excluded employees, whichever is less, for the state-sponsored indemnity dental plan. The premium to be paid by the annuitant shall be deducted from his or her monthly allowance.

(Added by Stats. 2004, Ch. 69, effective 6/24/04.)

Note: Former Section 22954 was added by Stats. 1988, Ch. 604; and amended by Stats. 1992, Ch. 447, effective 8/6/92.

§ 22958. Vesting for Postretirement Benefits

(a) Notwithstanding Sections 22953 and 22957, the following employees may not receive any portion of the employer contribution payable for annuitants, unless the person is credited with 10 or more years of state service, as defined by this section, at the time of retirement:

(1) A state employee, as defined by subdivision (c) of Section 3513, in State Bargaining Unit 5, 6, 8, or 16 who becomes a state member of the system after January 1, 1999.

(2) A state employee, as defined by subdivision (c) of Section 3513, in State Bargaining Unit 19 who becomes a state member of the system after July 1, 1998.

(3) A state employee, as defined by subdivision (c) of Section 3513, who becomes a state member of the system after January 1, 2000, and is a member of a state bargaining unit that has agreed to this section.

(4) A state employee who becomes a state member of the system after January 1, 2000, and is either excluded from the definition of a state employee in subdivision (c) of Section 3513, or a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

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(b) The percentage of the employer contribution payable for postretirement dental care benefits for an employee subject to this section shall be based on the funding provision of the plan and the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(c) This section only applies to state employees who retire for service.

(d) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(e) For purposes of this section, "state service" means service rendered as an employee or an appointed or elected officer of the state for compensation. Notwithstanding Section 22826, for purposes of this section, credited state service includes service to the state for which the employee, pursuant to Section 20281.5, did not receive credit.

(f) In those cases where the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that public agency may not be credited as state service for the purposes of this section, unless the former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee dental benefits that were vested at the time that the function and the related personnel were assumed by the state, and the Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement dental benefit costs of those personnel. For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under this section.

(g) This section does not apply to employees of the California State University or the Legislature.

(Added by Stats. 2004, Ch. 69, effective 6/24/04; amended by Stats. 2005, Ch. 328.)

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Note: Former Section 22955 was added by Stats. 1998, Ch. 21, effective 4/15/98; amended by Stats. 1998, Ch. 88, effective 6/30/98; and Ch. 1024, effective 9/30/98; and by Stats. 1999, Ch. 272, effective 8/31/99. Former Section 22955.1 was added by Stats. 1999, Ch. 3, effective 2/18/99; former Section 22955.2 was added by Stats. 1998, Ch. 91, effective 7/3/98; and former Section 22955.55 was added by Stats. 1998, Ch. 1024, effective 9/30/98.

§ 22959. Administration

The Department of Human Resources shall administer the benefits provided by this part for civil service employees and annuitants. The Trustees of the California State University shall administer the benefits provided by this part for employees and annuitants of the California State University.

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

Note: Former Section 22958 was added by Stats. 1982, Ch. 825.

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PART 6.1. VISION CARE PROGRAM FOR STATE ANNUITANTS

SECTION
§ 22959.1. Title and Purpose
§ 22959.2. Administration
§ 22959.3. Definitions
SECTION
§ 22959.4. Eligibility of Annuitant
§ 22959.5. Continuing Benefits
§ 22959.6. Contracts

§ 22959.1. Title and Purpose

This part shall be known and may be cited as the Vision Care Program for State Annuitants. The purpose of this part is to do all of the following:

(a) Promote increased economy and efficiency in the provision of vision benefits to annuitants.

(b) Enable the state to use economies of scale to provide a vision care plan similar to those commonly provided in private industry and in other states.

(c) Recognize and protect the state's investment in each permanent employee's service by providing into retirement the option of a vision care program, and to promote and preserve continued good health among state annuitants.

(Added by Stats. 2006, Ch. 611.)

§ 22959.2. Administration

The Vision Care Program for State Annuitants shall be administered by the Department of Human Resources.

(Added by Stats. 2006, Ch. 611; amended by Stats. 2012, Ch. 665.)

§ 22959.3. Definitions

Unless otherwise indicated, the definition of terms in Article 2 (commencing with Section 22760) of Part 5 apply to this part.

(Added by Stats. 2006, Ch. 611.)

§ 22959.4. Eligibility of Annuitant

(a) An annuitant who retires from the state may enroll in a vision care plan offered under this part, if any of the following apply:

(1) The annuitant was enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, and retired within 120 days of the date of separation.

(2) The annuitant was not enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, but was eligible for enrollment as an employee at the time of separation for retirement, and retired within 120 days of the date of separation.

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(3) The annuitant is part of the Legislators' Retirement System receiving an allowance pursuant to Article 6 (commencing with Section 9359) of Chapter 3.5 of Part 1 of Division 2.

(b) The Department of Human Resources has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide names or addresses to any person, agency, or entity for the purpose of notifying those annuitants.

(Added by Stats. 2006, Ch. 611; amended by Stats. 2012, Ch. 665.)

§ 22959.5. Continuing Benefits

(a) A person who was enrolled in a vision care plan at the time he or she became an annuitant under state or federal provisions, may continue his or her enrollment, including eligible family members, without discrimination as to benefit coverage as an enrolled person within this program. An annuitant who is eligible for this program is a person who meets the requirements of Section 22959.4 and at the time of retirement was employed with the state as one of the following:

(1) A civil service employee of the state.

(2) An elected member of the Legislature.

(3) A legislative employee.

(4) A constitutional officer.

(5) An employee of the judicial branch of state government.

(b) Annuitants of the California State University and University of California systems may not participate in this program.

(Added by Stats. 2006, Ch. 611.)

§ 22959.6. Contracts

(a) The Department of Human Resources may contract with one or more vision care plans for annuitants and eligible family members, provided the carrier or carriers have operated successfully in the area of vision care benefits for a reasonable period, as determined by the Department of Human Resources.

(b) The Department of Human Resources, as the program administrator, has full administrative authority over this program and associated funds and shall require the monthly premium to be paid by the annuitant for the vision care plan. The premium to be paid by the annuitant shall be deducted from his or her monthly allowance. If there are insufficient funds in an annuitant's allowance to pay the premium, the plan provider shall directly bill the annuitant. A vision care plan or plans provided under this authority shall be funded by the annuitant's premium. All premiums received from annuitants shall be deposited in the Vision Care Program for State Annuitants Fund, which is hereby created in the State Treasury. Any income earned on the moneys in the Vision Care Program for State Annuitants Fund shall be credited to the fund. Notwithstanding Section

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13340, moneys in the fund are continuously appropriated for the purposes specified in subdivision (d).

(c) An annuitant may enroll in a vision care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the employee or annuitant is also enrolled in the health benefit plan provided by that carrier. However, this section may not be construed to require an annuitant to enroll in a vision care plan and a health benefit plan provided by the same carrier. An annuitant enrolled in this program shall only enroll into a vision plan or vision plans contracted for by the Department of Human Resources.

(d) A contract for a vision care plan may not be entered into unless the Department of Human Resources determines it is reasonable to do so. Notwithstanding any other provision of law, any premium moneys paid into this program by annuitants for the purposes of the annuitant vision care plan that is contracted for shall be used for the cost of providing vision care benefits to eligible, enrolled annuitants and their eligible and enrolled dependents, the payment of claims for those vision benefits, and the cost of administration of the vision care plan or plans under this vision care program, those costs being determined by the Department of Human Resources.

(e) If the Director of Human Resources determines that it is not economically feasible to continue this program anytime after its commencement, the director may, upon written notice to enrollees and to the contracting plan or plans, terminate this program within a reasonable time. The notice of termination to the plan or plans shall be determined by the Department of Human Resources. The notice to enrollees of the termination of the program shall commence no later than three months prior to the actual date of termination of the program.

(f) Premium rates for this program shall be determined by the Department of Human Resources in conjunction with the contracted plan or plans and shall be considered separate and apart from active employee premium rates.

(Added by Stats. 2006, Ch. 611; amended by Stats. 2009, Ch. 126; by Stats. 2012, Ch. 728 and Ch. 665; and by Stats. 2013, Ch. 275.)

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PART 6.5. CALIFORNIA STATE UNIVERSITY ANNUITANT VISION CARE PROGRAM

SECTION
§ 22959.80. Title and Purpose
§ 22959.81. Administration
§ 22959.82. Definitions
§ 22959.83. Eligibility of Annuitant
SECTION
§ 22959.84. Continuing Benefits
§ 22959.85. Contracts
§ 22959.86. Implementation Date

§ 22959.80. Title and Purpose

This part shall be known and may be cited as the California State University Annuitant Vision Care Program. The purpose of this part is to do all of the following:

(a) Promote increased economy and efficiency in providing vision benefits to California State University annuitants.

(b) Enable the California State University to use economies of scale to provide a vision care plan similar to those commonly provided in private industry and in other states.

(c) Recognize and protect the California State University's investment in each employee by providing into retirement the option of a vision care program, and to promote and preserve continued good health among California State University annuitants.

(Added by Stats. 2007, Ch. 344.)

§ 22959.81. Administration

The California State University Annuitant Vision Care Program shall be administered by the Office of the Chancellor of the California State University.

(Added by Stats. 2007, Ch. 344.)

§ 22959.82. Definitions

"Annuitant" means any of the following:

(a) A person who has retired within 120 days of separation from California State University employment and who receives a retirement allowance under any state retirement or University of California retirement system to which the California State University was a contributing party.

(b) A surviving family member receiving an allowance in place of an annuitant who has retired as provided in subdivision (a), or as the survivor of a deceased California State University employee under Section 21541 or 21546.

(c) A person receiving a survivor allowance pursuant to Article 3 (commencing with Section 21570) of Chapter 14 of Part 3 if he or she was eligible to enroll in a health benefit plan on the date of the California State

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University employee member's death, on whose account the survivor allowance is payable.

(d) A family member of a deceased retired member of the State Teachers' Retirement Plan, if the deceased member meets both of the following conditions:

(1) Retired within 120 days of separation from California State University employment.

(2) Prior to his or her death, received a retirement allowance that did not provide for a survivor allowance to family members.

(Added by Stats. 2007, Ch. 344.)

§ 22959.83. Eligibility of Annuitant

(a) An annuitant who retires from a California State University campus or the office of the chancellor may enroll in a vision care plan offered under this part, if any of the following apply:

(1) The annuitant was enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, and retired within 120 days of the date of separation.

(2) The annuitant was not enrolled in a health benefit plan, a dental care plan, or vision care plan at the time of separation for retirement, but was eligible for enrollment as an employee at the time of separation for retirement, and retired within 120 days of the date of separation.

(b) The California State University has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide names or addresses to any person, agency, or entity for the purpose of notifying those annuitants.

(Added by Stats. 2007, Ch. 344.)

§ 22959.84. Continuing Benefits

A California State University employee who was enrolled in a vision care plan at the time he or she became an annuitant under state or federal provisions may continue his or her enrollment, including eligible family members, without discrimination as to benefit coverage, as an enrolled person within this program. An annuitant who is eligible for this program is a person who meets the requirements of Section 22959.83 and at the time of retirement was employed by a California State University campus or the office of the chancellor.

(Added by Stats. 2007, Ch. 344.)

§ 22959.85. Contracts

(a) The California State University may contract with one or more vision care plans for annuitants and eligible family members if the carrier or carriers have operated successfully in the area of vision care benefits for a reasonable period, as determined by the California State University.

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(b) The California State University, as the program administrator, has full administrative authority over this program and associated funds and shall require the monthly premium to be paid by the annuitant for the vision care plan. The premium to be paid by the annuitant shall be deducted from his or her monthly retirement allowance. A vision care plan or plans provided under this authority shall be funded by the annuitants' premiums. All premiums received from annuitants shall be deposited in the California State University Annuitant Vision Care Program trust account, which is hereby created. Any income earned on the moneys in the California State University Annuitant Vision Care Program trust account shall be credited to the trust account.

(c) An annuitant may enroll in a vision care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the employee or annuitant is also enrolled in the health benefit plan provided by that carrier. However, nothing in this section may be construed to require an annuitant to enroll in a vision care plan and a health benefit plan provided by the same carrier. An annuitant enrolled in this program shall only enroll in a vision plan or vision plans contracted for by the California State University.

(d) No contract for a vision care plan may be entered into unless the California State University determines it is reasonable to do so. Notwithstanding any other provision of law, any premium moneys paid into this program by annuitants for the purposes of a vision care plan shall be used for the cost of providing vision care benefits to eligible, enrolled annuitants and their eligible and enrolled dependents, the payment of claims for those vision benefits, and the cost of administration of the vision care plan or plans under this vision care program, including startup costs, as determined by the California State University.

(e) If the California State University determines that it is not economically feasible to continue this program any time after its commencement, the California State University may, upon written notice to enrollees and to the contracting plan or plans, terminate this program within a reasonable time. The notice of termination to the plan or plans shall be determined by the California State University. The notice to enrollees of the termination of the program shall commence no later than three months prior to the actual date of termination of the program. The California State University shall notify the Legislature of a decision to terminate the program.

(f) Premium rates for this program shall be determined by the California State University in conjunction with the contracted plan or plans and shall be considered separate and apart from active employee premium rates.

(Added by Stats. 2007, Ch. 344.)

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§ 22959.86. Implementation Date

On or after July 1, 2008, the California State University shall implement the California State University Annuitant Vision Care Program.

(Added by Stats. 2007, Ch. 344.)

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PART 6.7. RETIRED PUBLIC EMPLOYEES VISION CARE PROGRAM

SECTION
§ 22959.9. Title and Purpose of Program
§ 22959.91. Administration of Program
§ 22959.92. Definitions of Eligible Participants
SECTION
§ 22959.93. Notification of Eligibility for Enrollment
§ 22959.96. Contracts
§ 22959.97. Implementation

§ 22959.9. Title and Purpose of Program

This part shall be known and may be cited as the Retired Public Employees Vision Care Program. The purpose of this part is to do all of the following:

(a) Promote increased economy and efficiency in the provision of vision care benefits to retired members of public agencies, schools, and the university system.

(b) Enable the public agencies, schools, and the university system, when those entities provide retirement benefits to their annuitants through the Public Employees' Retirement System, to use economies of scale to provide a vision care plan for their employees that is similar to those commonly provided to State of California employees, annuitants, and private industry, and as may be provided in other states.

(c) Promote and preserve continued good health among members of public agencies, schools, and the university system.

(Added by Stats. 2009, Ch. 265.)

§ 22959.91. Administration of Program

The Retired Public Employees Vision Care Program shall be administered by the board or its designees.

(Added by Stats. 2009, Ch. 265.)

§ 22959.92. Definitions of Eligible Participants

For purposes of this part, the following definitions apply:

(a) "Annuitant" means any of the following:

(1) A person who has retired from an employer described in subdivision (c) and receives a retirement allowance from the Public Employees' Retirement System.

(2) A surviving family member receiving an allowance in place of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21541, 21546, or 21547.7.

(b) "Board" means the Board of Administration of the Public Employees' Retirement System.

(c) "Employer" means an employer described in Section 20022, 20063, or 20071.

(d) "Family member" means any of the following:

(1) An annuitant's spouse or domestic partner.

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(2) Any unmarried child, including an adopted child, a stepchild, or recognized natural child under 23 years of age who is economically dependent upon the annuitant, when there exists a parent-child relationship with the annuitant.

(3) An unmarried child who at the time of attaining 23 years of age is incapable of self-support because of physical or mental disability that existed continuously from a date prior to attainment of 23 years of age, and who continues in family member status until termination of that status.

(Added by Stats. 2009, Ch. 265.)

§ 22959.93. Notification of Eligibility for Enrollment

(a) An annuitant or eligible family member may enroll in a vision care plan offered under this part.

(b) The board has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide names or addresses to any person, agency, or entity for the purpose of notifying any annuitant.

(Added by Stats. 2009, Ch. 265.)

§ 22959.96. Contracts

(a) The board may, without compliance with any provisions of law relating to competitive bidding, contract with one or more vision care plans for annuitants and eligible family members, provided each vision care plan carrier has operated successfully in the area of vision care benefits for a reasonable period, as determined by the board.

(b) The board, as the program administrator, has full administrative authority over this program and associated funds and shall require the monthly premium to be paid by the annuitant for the vision care plan. The premium to be paid by the annuitant may be deducted from his or her monthly allowance. If the annuitant's monthly allowance is insufficient to cover the full premium, the annuitant shall be responsible for paying the required balance directly to the vision care plan carrier.

(c) A vision care plan or plans provided under this authority shall be funded by the annuitant's premium. All premiums received from annuitants shall be deposited in the Retired Public Employees Vision Care Program Fund, which is hereby created in the State Treasury. Any income earned on the moneys in the Retired Public Employees Vision Care Program Fund shall be credited to the fund. Notwithstanding Section 13340 of the Government Code, moneys in the fund are hereby continuously appropriated for the purposes specified in subdivision (d).

(d) The board shall have the exclusive control of the administration and investment of the Retired Public Employees Vision Care Program Fund.

(e) An annuitant may enroll in a vision care plan provided by a carrier that also provides a health benefit plan if the annuitant is also enrolled in the health benefit plan provided by that carrier. However, nothing in this section may be construed

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to require an annuitant to enroll in a vision care plan and a health benefit plan provided by the same carrier. An annuitant enrolled in this program shall only enroll in a vision plan or plans contracted for by the board.

(f) No contract for a vision care plan may be entered into unless the board determines it is reasonable to do so, and any contract shall take effect only if funds have been made available to cover the startup costs of the program. Notwithstanding any other provision of law, any premium moneys paid into this program by annuitants for the purposes of the member vision care plan that is contracted for shall be used for the cost of providing vision care benefits to eligible, enrolled annuitants and their eligible and enrolled dependents, the payment of claims for those vision benefits, the cost of administration of the vision care plan or plans under this vision care program, and any reasonable cost or expense incurred by the board in connection with the startup of the program, those costs being determined by the board.

(g) If the board determines that it is not economically feasible to continue this program at any time after its commencement, the board may, upon written notice to enrollees and to the contracting plan or plans, terminate this program within a reasonable time. The notice of termination to the plan or plans shall be determined by the board. The notice to enrollees of the termination of the program shall commence no later than three months prior to the actual date of termination of the program.

(h) Premium rates for this program shall be determined by the board in conjunction with the contracted plan or plans and shall be considered separate from any active employee premium rates.

(Added by Stats. 2009, Ch. 265.)

§ 22959.97. Implementation

On or before January 1, 2011, the board shall implement the Retired Public Employees Vision Care Program.

(Added by Stats. 2009, Ch. 265.)

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PART 7. STATE PEACE OFFICERS' AND FIREFIGHTERS' DEFINED CONTRIBUTION PLAN

Chapter 1. General Provisions

SECTION
§ 22960. Establishment of Plan
§ 22960.05. Plan Definitions
§ 22960.1. Supplemental Benefits
SECTION
§ 22960.2. Design of Plan
§ 22960.3. Invalid Provisions
§ 22960.4. Plan Termination

§ 22960. Establishment of Plan

(a) The State Peace Officers' and Firefighters' Defined Contribution Plan is hereby established for state peace officer and firefighter members in Bargaining Unit 6 who have become subject to this part by memorandum of understanding, as provided by Section 3517.5.

(b) The plan may also be provided to state peace officers or firefighters who are either excluded from the definition of state employee in subdivision (c) of Section 3513, or are nonelected officers or employees of the executive branch of government and are not members of the civil service, and who supervise employees in a bargaining unit that is subject to this part, provided that the Department of Human Resources has approved their inclusion for coverage under this part.

(Added by Stats. 1998, Ch. 820, effective 9/25/98; amended by Stats. 2012, Ch. 665.)

§ 22960.05. Plan Definitions

The plan is intended to constitute a governmental plan as defined by Section 414(d) of the Internal Revenue Code (26 U.S.C. Sec. 414(d)) and, as such, the plan and all benefits payable thereunder are intended to satisfy all requirements of Section 401(a) of the Internal Revenue Code (26 U.S.C. Sec. 401(a)) that apply to the plan.

(Added by Stats. 2014, Ch. 790, effective 9/29/2014.)

§ 22960.1. Supplemental Benefits

The State Peace Officers' and Firefighters' Defined Contribution Plan shall supplement the benefits provided under Part 3 (commencing with Section 20000).

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.2. Design of Plan

(a) The State Peace Officers' and Firefighters' Defined Contribution Plan is a qualified money purchase pension plan under Section 401(a) of Title 26 of the United States Code.

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(b) The design and administration of the State Peace Officers' and Firefighters' Defined Contribution Plan shall conform with the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.3. Invalid Provisions

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

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.4. Plan Termination

(a) The Legislature finds and declares that an agreement between the exclusive representative of state peace officer and firefighter members in State Bargaining Unit 6 and the employer has eliminated the employer contributions to the plan provided in Section 22960.60.

(b) The following shall occur:

(1) All contributions to the plan shall cease.

(2) New participants shall be prohibited from participating in the plan.

(3) The plan shall be terminated effective June 1, 2014, subject to obtaining appropriate approvals from the Internal Revenue Service, including a favorable determination letter on plan termination from the Internal Revenue Service.

(4) Subject to paragraph (3), all moneys in the fund shall be distributed in accordance with this part and federal law. If not elected otherwise, amounts that become payable from the fund under this section shall be rolled over under Section 401(a)(31) of Title 26 of the United States Code to the Supplemental Contributions Program established in accordance with Section 22970.

(Added by Stats. 2013, Ch. 755; amended by Stats. 2014, Ch. 790, effective 9/29/2014.)

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Chapter 2. Definitions

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§ 22960.10. "Account"

"Account" means the account maintained with respect to the participant which reflects that aggregate value of the following amounts credited to the participant:

(a) Employee contributions to the plan.

(b) Employer contributions to the plan on behalf of the participant.

(c) Net earnings of the State Peace Officers' and Firefighters' Defined Contribution Plan Fund allocable to the participant.

(d) Any amount credited to the participant's account by reason of a transfer from another qualified plan in accordance with applicable federal tax laws.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.11. "Beneficiary"

"Beneficiary" means any person or persons designated by the participant pursuant to this part, or otherwise entitled by statute, to receive distributions from the participant's account upon the death of the participant.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.12. "Board"

"Board" means the Board of Administration of the California Public Employees' Retirement System.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.13. "Compensation"

"Compensation" means the total amount paid to an employee for a plan year as required to be reported on the employee's Internal Revenue Service form W-2 for income tax withholding purposes. This amount shall include employee contributions picked up by the employer under Section 414(h)(2) of Title 26 of

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the United States Code; and any amounts deducted by the employer from the participant's salary, including deductions for tax-deferred retirement plans or insurance programs; deductions for participation in an eligible deferred compensation plan within the meaning of Section 457 of Title 26 of the United States Code; and deductions for participation in a plan that meets the requirements of Section 125 or 401(k) of Title 26 of the United States Code.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.14. "Disability"

"Disability" means a disability as determined by the board pursuant to Section 21156.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.15. "Eligible Employee"

"Eligible employee" means any person employed by the state, whose compensation is paid out of funds directly controlled by the state, and who is subject to coverage by the plan pursuant to the provisions of Section 22960.

(Added by Stats. 1998, Ch. 820, effective 9/25/98; amended by Stats. 2009, Ch. 130.)

§ 22960.16. "Employee Contribution"

"Employee contribution" means the amount withheld from the participant's compensation by the employer as a contribution to the participant's account in the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.17. "Employee Contribution Rate"

"Employee contribution rate" means the percentage of the participant's compensation to be withheld by the employer as an employee contribution to the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.18. "Employer"

"Employer" means the State of California.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.19. "Employer Contribution"

"Employer contribution" means the amount contributed by the employer to the participant's account in the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.20. "Employer Contribution Rate"

"Employer contribution rate" means the percentage of the participant's compensation to be contributed by the employer to the participant's account in the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.21. "Fund"

"Fund" means the State Peace Officers' and Firefighters' defined Contribution Plan Fund.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.22. "Net Earnings"

"Net earnings" means the income earned, or losses incurred, on the State Peace Officers' and Firefighters' Defined Contribution Plan Fund, less the costs of administering the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.23. "Normal Retirement Age"

"Normal retirement age" means the age at which the participant is eligible for a retirement benefit without special qualifications and is the age of 50 years under this plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.24. "Participant"

"Participant" means an employee who is subject to coverage by the plan, and who has contributions credited under the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.25. "Plan"

"Plan" means the State Peace Officers' and Firefighters' Defined Contribution Plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.26. "Plan Year"

"Plan year" means the 12-month period commencing on any January 1 and ending on the following December 31.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.27. "Retirement"

"Retirement" means termination of all employment for the employer and completion of all conditions precedent to receiving a distribution for retirement.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.28. "Spouse"

"Spouse" means the person married to the participant on the date the participant files a beneficiary designation, or an application for a distribution from the plan, or on the date of the participant's death.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.29. "State Peace Officers and Firefighters"

"State peace officers and firefighters" means those persons included in the definition of "state peace officer/firefighter member" pursuant to Article 3 (commencing with Section 20390) of Chapter 4 of Part 3.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.30. "System"

"System" means the Public Employees' Retirement System.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.31. "Termination"

"Termination" means termination of employment by reason of separation from all service for the employer.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.32. "Valuation Date"

"Valuation date" means the date as of which the assets of the fund are valued.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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Chapter 3. Administration of the Plan

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§ 22960.39. Contract with Third Party
§ 22960.40. Access to Information

§ 22960.35. Administrative Board

(a) Except as provided in this part, the plan shall be administered by the board in conformity with its powers and duties for administration of the system as set forth in Part 3 (commencing with Section 20000). The board shall, to the extent that it determines feasible, follow the procedures set forth in Article 7 (commencing with Section 20220) of Chapter 2 of Part 3.

(b) The board may retain a third-party administrator to perform recordkeeping, customer service or other plan administration services.

(c) The board shall notify the Department of Human Resources when it is prepared to implement the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98; amended by Stats. 2012, Ch. 665.)

§ 22960.36. Trust; Amendments

(a) The board shall adopt a trust instrument embodying the material terms and conditions of the plan consistent with this part and the applicable provisions of Title 26 of the United States Code.

(b) The board may, as it deems necessary, amend the plan consistent with this part and the applicable provisions of Title 26 of the United States Code.

(c) The board shall provide reasonable notice to each plan participant of any plan amendment.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.37. Administrative Responsibilities

In administering the plan, the officers and employees of the system shall discharge their duties with respect to the plan solely in the interest of the participants and beneficiaries:

(a) In accordance with the documents and instruments governing the plan insofar as those documents and instruments are consistent with this part.

(b) For the exclusive purpose of both of the following:

(1) Providing benefits to participants and their beneficiaries.

(2) Defraying reasonable expenses of administering the plan.

(c) By investing with the care, skill, prudence, and diligency under the circumstances then prevailing that a prudent person acting in a like capacity and

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familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.38. Prohibited Transactions

With regard to the plan, the board shall not engage in any transaction prohibited by Section 503(b) of Title 26 of the United States Code.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.39. Contract with Third Party

The board may require a third-party administrator, recordkeeper, custodian, or investment manager that is contracted with, or appointed by the system, to be subject to the duties set forth in Section 22960.37.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.40. Access to Information

Data filed by any participant or beneficiary with the board is confidential, and no individual record shall be divulged by any official or employee having access to that data to any person other than the participant to whom the information relates or his or her authorized representative, employer, or any state department or agency. The information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. Any information that is requested for retirement purposes by any public agency shall be treated as confidential by the agency.

(a) The board may seek reimbursement for reasonable administrative expenses incurred when providing that information. Except as provided by this section, no participant's or beneficiary's address, home telephone number, or other personal information shall be released.

(b) For purposes of this section, "authorized representative" includes the spouse or beneficiary of a participant when no contrary appointment has been made and when, in the opinion of the board, the participant is prevented from appointing an authorized representative because of mental or physical incapacity or death.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.45. Establishment of Fund

The State Peace Officers' and Firefighters' Defined Contribution Plan Fund is hereby established as a special trust fund in the State Treasury to accept participant and employer contributions to the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.46. Control Over Fund

The board shall have exclusive control of the investment of the fund.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.47. Custodian

Notwithstanding any other provision of law, the board may retain a bank or trust company to serve as a custodian for safekeeping, recordkeeping, delivery, securities valuation, investment performance reporting, or other services in connection with investment and administration of the fund.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.48. Continuous Appropriation

Notwithstanding Section 13340, all moneys in the fund are continuously appropriated, without regard to fiscal years or plan years, to the board to carry out the purposes of this part.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.49. Plan Costs

All costs of the plan shall be charged against the plan participants accounts.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.50. Valuation of Assets

The assets of the fund shall be valued annually, and may be valued more frequently as prescribed by the board.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.51. Reverting of Assets

No part of the assets of the fund may revert to the employer until all liabilities of the plan have been fully satisfied.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.51. Use of Trust Funds

Consistent with the requirements of Section 401(a)(2) of the Internal Revenue Code (26 U.S.C. Sec. 401(a)(2)), the corpus or income of the plan's trust shall not be diverted to, or used for, purposes other than the exclusive benefit of the members or their beneficiaries nor shall there be a reversion of trust funds except as permitted by Revenue Ruling 91-4, 1991-1 C.B. 57, by the Internal Revenue Service.

(Added by Stats. 2014, Ch. 790, effective 9/29/2014.)

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§ 22960.55. Participation in Plan

(a) Any person who is an eligible employee on the effective date of the plan, as set forth in the memorandum of understanding, shall become a participant on the effective date of the plan.

(b) Any person who becomes an eligible employee after the effective date of the plan shall become a participant on the first day of covered employment.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.60. Contribution Rates—Memorandum of Understanding

(a) Employer and employee contribution rates may be determined by the terms of the memorandum of understanding applicable to each plan participant and the employer in accordance with the requirements of this section.

(b) Through the Department of Human Resources, the employer shall provide the board with a true and correct copy of each memorandum of understanding applicable to plan participants. The board may prescribe procedures for the orderly transmittal and receipt of these documents.

(c) Except as provided in subdivision (e), after receipt of an applicable memorandum of understanding that sets forth an employer contribution rate and any employee contribution rate, the board shall, in accordance with Section 22960.36, amend the plan to provide for the employer contribution rate and any employee contribution rate set forth in the memorandum of understanding.

(d) The employer contribution rate and any employee contribution rate for state peace officers and firefighters who have become subject to this part pursuant to the provisions of subdivision (b) of Section 22960 shall be the contribution rate or rates set forth in the memorandum of understanding for state peace officers and firefighter members in Bargaining Unit 6.

(e) The board may refuse to amend the plan under this section if, in the board's considered judgment, the proposed amendment would violate any applicable provision of Title 26 of the United States Code.

(f) The initial employer contribution rate shall be prescribed in the memorandum of understanding. In the event an MOU expires and no new memorandums of understanding takes effect, the last memorandums of understanding in place shall control.

(Added by Stats. 1998, Ch. 820, effective 9/25/98; amended by Stats. 2012, Ch. 665.)

§ 22960.61. Deductions from Compensation

The employer shall pick up, for the sole purpose of and in accordance with the requirements of Section 414(h)(2) of Title 26 of the United States Code and Section 17501 of the Revenue and Taxation Code, all of the amounts otherwise due as employee contributions, which shall be paid by the employer in lieu of employee contributions and which shall be deducted from the employee's compensation.

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(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.62. Fund Transfers

Pursuant to terms and conditions established by the board, a participant may be permitted to transfer funds from an eligible retirement plan into the plan to the extent that the transfers are allowable under applicable federal and state laws.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.63. Applicable Limitations

(a) Notwithstanding any other provision of law or contract to the contrary, contributions to the plan shall be subject to the applicable limitations imposed by Section 415 of Title 26 of the United States Code, as that section may be amended from time to time and as these limits may be adjusted by the Commissioner of Internal Revenue.

(b) Notwithstanding any other provision of law or contract to the contrary, the amount of compensation that is taken into account in determining the benefits payable under the plan shall not exceed the applicable annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United State Code, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.65. Crediting of Contributions

(a) Any contributions made by the participant to the plan shall be credited to the participant's account.

(b) Contributions made by the employer on behalf of the participant shall be credited to the participant's account.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.66. Mistake of Fact

In the case of a contribution that is made under a mistake of fact, nothing in this part shall prohibit the return of that contribution within one year after discovery of the mistake.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.67. Allocation of Net Earnings

The net earnings of the fund shall be allocated to the participant's account as of each valuation date in the ratio that the participant's account balance bears to the aggregate of all participants' account balances.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.68. Account Valuation

The value of each participant's account shall be determined at least once annually in a manner prescribed by the board.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.69. Statement of Account

A participant shall receive a statement that displays the value, or balance, of the participant's account and summarizes any credits to the account or other transactions that occurred after the immediately preceding valuation date. The statement of account shall be provided at least once annually to each participant.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.70. Vested Right

A participant has a vested right to 100 percent of the value of the participant's account. The right accrues when the person becomes a participant.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.71. Assignment of Rights

The right of a participant to a benefit is not subject to execution or any other process whatsoever, except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and is unassignable except as specifically provided under this part. Notwithstanding any provision of this part to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of Title 26 of the United States Code.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.75. Separation or Divorce

(a) Upon the legal separation or dissolution of marriage of a participant, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the community property is divided in accordance with subdivision (c) of Section 2610 of the Family Code, the court shall order that the contributions and earnings attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the participant and the name of the nonparticipant spouse, respectively. Any contributions or earnings that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the participant.

(c) The court shall address the rights of the nonparticipant spouse to the following:

(1) The right to a retirement benefit, and the consequent right to elect an annuity.

(2) The right to lump-sum distribution of the balance of the nonparticipant spouse's account.

(3) The right to designate a beneficiary to receive a distribution of the balance remaining in the nonparticipant spouse's account upon the death of the nonparticipant spouse.

(d) In the capacity of nonparticipant spouse, he or she is entitled only to the rights and benefits explicitly established by this chapter. The nonparticipant spouse shall not be entitled to a disability benefit.

(e) Nothing in this chapter shall be construed to authorize any amount to be distributed under the plan at a time or in a form that is not permitted under this part or Title 26 of the United States Code.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.76. "Nonparticipant Spouse"

For purposes of this chapter, "nonparticipant spouse" means the spouse or the former spouse of the participant, who as a result of petitioning the court for the division of community property, has been awarded a distinct and separate account. A nonparticipant spouse who is awarded a separate account is not a participant in the plan.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.77. Nonparticipant Spouse's Rights

(a) The nonparticipant spouse shall have the right to a lump-sum distribution of the amounts credited to his or her account.

(b) The nonparticipant spouse shall file an application for the distribution on a form prescribed by the board.

(c) No partial distribution shall be made from the nonparticipant spouse's account.

(d) The nonparticipant spouse may not cancel the distribution once it has become effective.

(e) The nonparticipant spouse is deemed to have permanently waived all rights to a retirement benefit when the distribution becomes effective.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.78. Retirement Benefits for Nonparticipant Spouse

(a) A nonparticipant spouse may apply for a retirement benefit, provided the participant or the nonparticipant spouse has attained the normal retirement age. The retirement benefit is a distribution of the balance of the nonparticipant spouse's account.

(b) Application for a retirement benefit shall be made on an application form prescribed by the board.

(c) The retirement date shall be the date designated in the nonparticipant spouse's application, or the day following the date of the court order dividing the community property of the participant and nonparticipant spouse, if later.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.79. Form of Distribution

A nonparticipant spouse who is entitled to a distribution for retirement that equals or exceeds five thousand dollars ($5,000), may elect to receive the distribution in one of the following forms:

(a) A single lump-sum payment.

(b) Substantially level installment payments for a period of years that extends no longer than the life expectancy of the participant.

(c) A single life annuity.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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§ 22960.80. Designation Form

The participant may designate any person or persons as beneficiaries to receive any amount that may be payable upon the death of the participant pursuant to the provisions of Section 22960.88. The beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the participant, and delivered to a plan representative prior to the participant's death.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.81. Impairment of Rights

Notwithstanding Section 22960.80, the participant's beneficiary designation shall not be given effect and shall be overridden to the extent that such a designation would impair the rights of any surviving spouse under applicable federal or state law.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.82. Entitlement to Equal Shares

Unless otherwise provided in the beneficiary designation form, each designated beneficiary shall be entitled to equal shares of the lump-sum distribution that may be payable from the participant's account upon the death of the participant.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.83. Accounts Payable to Estate

In the event the participant dies without a valid beneficiary designation on file, or if no designated beneficiary survives the participant, any balance remaining in the participant's account shall be payable to the participant's survivors in the following order:

(a) The participant's spouse.
(b) The participant's natural or adopted children.
(c) The participant's parents.
(d) The participant's brothers and sisters.
(e) The participant's estate.

(Added by Stats. 1998, Ch. 820, effective 9/25/98; amended by Stats. 2010, Ch. 639.)

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§ 22960.85. Distribution for Termination of Employment

(a) Upon separation from all service for the employer for any reason other than death, disability, or retirement, a participant is entitled to a lump-sum distribution of the balance of his or her account as of the first valuation date immediately following the date of the application.

(b) Application for a distribution for termination of employment shall be made on an application form prescribed by the board. Any participant who is entitled to a distribution that equals or exceeds five thousand dollars ($5,000), may elect on the application form to receive the distribution in one of the following forms:

(1) A single lump-sum payment.

(2) Substantially level installment payments for a period of years that extends no longer than the life expectancy of the participant.

(c) The employer shall certify on a form prescribed by the board that the participant's employment has terminated.

(d) No partial distribution shall be made from the participant's account.

(e) The participant is deemed to have permanently waived all rights to a retirement benefit when the distribution becomes effective.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.86. Application for Retirement Benefit

(a) Upon separation from all service for the employer, a participant may apply for a retirement benefit, provided the retirement date is no earlier than the date on which the participant attains the normal retirement age. The retirement benefit is a distribution of the balance of the participant's account as of the first valuation date immediately following the date of the application.

(b) Application for a retirement benefit shall be made on an application form prescribed by the board.

(c) The employer shall certify on a form prescribed by the board that the participant's employment has terminated.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.87. Disability Benefit

(a) A disability benefit shall become payable to a participant only upon the participant's separation from all service for the employer and upon a

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determination by the board that the participant has a disability pursuant to Section 21156. The disability benefit is a distribution of the balance of the participant's account as of the first valuation date immediately following the date of the application.

(b) Application for a disability benefit shall be made on an application form and in the manner prescribed by the board.

(c) The employer shall certify on a form prescribed by the board that the participant's employment has terminated.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.88. Death Benefit

(a) Upon receipt of proof of a participant's death, the beneficiary or beneficiaries shall be entitled to a death benefit that is a lump-sum distribution of the balance remaining in the participant's account.

(1) If the participant died prior to termination of employment or distribution of all of the contributions and earnings credited to the participant's account, the lump-sum distribution shall be an amount that is equal to the balance remaining in the participant's account.

(2) If the participant died while receiving a periodic payment, any remaining payments shall be paid to the beneficiary under the same schedule until there is no balance remaining in the participant's account.

(b) Application for the distribution shall be made on an application form prescribed by the board.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.89. Forms of Distribution

Any participant who is entitled to a distribution for retirement or disability that equals or exceeds five thousand dollars ($5,000), may elect to receive the distribution in one of the following forms:

(a) A single lump-sum payment.

(b) Substantially level installment payments for a period of years that extends no longer than the life expectancy of the participant.

(c) A single life annuity.

(d) A joint and survivor annuity for the lifetimes of the participant and the participant's option beneficiary.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.90. Distribution to Spouse

A beneficiary who is the spouse of the participant and who is entitled to a distribution that equals or exceeds five thousand dollars ($5,000), may elect to receive the distribution in one of the following forms:

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(a) A single lump-sum payment.
(b) Substantially level installment payments for a period of years that extends no longer than the life expectancy of the beneficiary.
(c) A single life annuity.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.91. Distribution to Person Other than Spouse

A beneficiary who is not the spouse of the participant, and who is entitled to a distribution that equals or exceeds five thousand dollars ($5,000), may elect to receive the distribution in one of the following forms:
(a) A single lump-sum payment.
(b) Substantially level installment payments for a period not to exceed five years.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.92. Annuities

The board may contract with an insurance, annuity, mutual fund, or any other qualified company to provide annuities to participants pursuant to Section 22960.89, to beneficiaries pursuant to Section 22960.90, and to nonparticipant spouses pursuant to Section 22960.79.
(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

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Chapter 12. Distributions

SECTION
§ 22960.95. Statutory Requirements; Beginning Date of Distribution
§ 22960.96. Payment Dates
§ 22960.97. Rollovers
§ 22960.98. Direct Distributions; Withholdings
§ 22960.99. Ceasing of Obligations
§ 22960.100. Repealed

§ 22960.95. Statutory Requirements; Beginning Date of Distribution

Notwithstanding any other provision of this part, a participant, nonparticipant spouse, or beneficiary shall not be permitted to elect a distribution under this part that does not satisfy the requirements of Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)G and the regulations thereunder. The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(a) In the case of a lump-sum distribution to the participant, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70 and a half years or the calendar year in which the participant terminates all employment for the employer.

(b) In the case of a distribution to the participant in the form of installment payments or an annuity, payment shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70 and a half years or the calendar year in which the participant terminates all employment subject to coverage by the plan.

(c) In the case of a benefit payable on account of the participant's death, distributions shall be paid no later than December 31 of the calendar year in which the fifth anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions must commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(2) December 31 of the calendar year in which the participant would have attained the age of 70 and a half years.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.96. Payment Dates

(a) Distributions from the plan shall be made as soon as practicable after the first valuation date immediately following the date of the application.

(b) Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code or any other law to the contrary, the death benefit

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payable under the plan may be requested by the beneficiary and paid as soon as practicable following receipt of proof of the participant's death.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.97. Rollovers

If a person becomes entitled to a distribution from the plan that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution by the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.98. Direct Distributions; Withholdings

Except as otherwise provided in this part, all distributions shall be made directly from the fund to the participant or beneficiary. To the extent required by federal and state law, income and other taxes shall be withheld from each benefit payment, and the payment shall be reported to the appropriate governmental agency or agencies.

(Added by Stats. 1998, Ch. 820, effective 9/25/98.)

§ 22960.99. Ceasing of Obligations

(a) The plan's obligations to a participant, beneficiary, or nonparticipant spouse who has applied for a lump-sum benefit cease upon distribution of the lump-sum benefit.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant, beneficiary, or nonparticipant spouse and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant, beneficiary, or nonparticipant spouse constitutes distribution of the benefit.

(3) If the participant, beneficiary, or nonparticipant spouse has elected on a form prescribed by the board to transfer all or a specific portion of the account that is eligible for a direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes distribution of the benefit.

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(b) The plan's obligations to a participant, beneficiary, or nonparticipant spouse who elected to receive a benefit in the form of installment payments or an annuity cease upon distribution of the final payment.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant, beneficiary, or nonparticipant spouse and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant, beneficiary, or nonparticipant spouse constitutes distribution of the benefit.

(c) Distribution under paragraph (1), (2), or (3) of subdivision (a) or paragraph (1) or (2) of subdivision (b) pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons constitutes a complete discharge and release of the board, system, and plan from liability for payments.

(d) Distribution under paragraph (4) of subdivision (b) of Section 22960.4 constitutes a complete discharge and release of the board, system, and plan from liability for payments, and the board and system shall not be treated as fiduciaries with respect to a transfer of funds from the plan to the Supplemental Contributions Program in accordance with Section 22970.

(Added by Stats. 1998, Ch. 820, effective 9/25/98; amended by Stats. 2013, Ch. 755.)

§ 22960.100. Repealed

(Added by Stats. 1998, Ch. 1024, effective 9/30/98; amended by Stats. 2012, Ch. 665; repealed by Stats. 2013, Ch. 755.)

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PART 8. SUPPLEMENTAL CONTRIBUTIONS PROGRAM

Chapter 1. General Provisions

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§ 22970.	Establishment of Program	§ 22970.2.	Program Design and Administration
§ 22970.1.	Supplemental Benefits	§ 22970.3.	Severability of Provisions

§ 22970. Establishment of Program

(a) The Supplemental Contributions Program is hereby established to be a defined contribution plan within the meaning of subsection (i) of Section 414 of Title 26 of the United States Code. This program shall operate in accordance with the plan document adopted by the board.

(b) This part does not establish a new program, but rather recodifies, and further defines the Supplemental Contributions Program as amended by Chapter 576 of the Statutes of 1994, to ensure full compliance with the applicable provisions of Title 26 of the United States Code.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2007, Ch. 511.)

§ 22970.1. Supplemental Benefits

The benefits provided under the Supplemental Contributions Program shall supplement the benefits provided under Part 3 (commencing with Section 20000) and Chapter 3.5 (commencing with Section 9350) of Part 1 of Division 2.

(Added by Stats. 1999, Ch. 307.)

§ 22970.2. Program Design and Administration

The design and administration of the Supplemental Contributions Program shall conform with the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.

(Added by Stats. 1999, Ch. 307; amended by Stats. 1999, Ch. 785.)

§ 22970.3. Severability of Provisions

If any provision of this part or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this part that can be given effect without the invalid provision or application by a court of competent jurisdiction application, and to this end the provisions of this part are severable.

(Added by Stats. 1999, Ch. 307.)

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Chapter 2. Definitions

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§ 22970.10.	"Account"	§ 22970.18.	"Fund"
§ 22970.11.	"Beneficiary"	§ 22970.19.	"Net Earnings"
§ 22970.12.	"Board"	§ 22970.20.	"Participant"
§ 22970.13.	"Compensation"	§ 22970.21.	"Plan"
§ 22970.14.	"Disability"	§ 22970.22.	"Plan Year"
§ 22970.15.	"Early Retirement Age"	§ 22970.23.	"Retirement"
§ 22970.16.	"Eligible Employee"	§ 22970.24.	"System"
§ 22970.17.	"Employee Contribution"	§ 22970.25.	"Termination"
§ 22970.175.	"Employer"	§ 22970.26.	"Valuation Date"

§ 22970.10. "Account"

"Account" means the account maintained with respect to the participant that reflects the aggregate value of the following amounts credited to the participant:

(a) Employee after-tax contributions to the plan.

(b) Net earnings of the Supplemental Contributions Program allocable to the participant.

(c) Any amount credited to the participant's account by reason of a transfer or a rollover from another plan or arrangement in accordance with applicable laws.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2013, Ch. 755.)

§ 22970.11. "Beneficiary"

"Beneficiary" means any person or persons designated by the participant pursuant to this part, or otherwise entitled by statute, to receive distributions from the participant's account upon the death of the participant.

(Added by Stats. 1999, Ch. 307.)

§ 22970.12. "Board"

"Board" means the Board of Administration of the Public Employees' Retirement System.

(Added by Stats. 1999, Ch. 307.)

§ 22970.13. "Compensation"

"Compensation" means the total amount paid to an employee for a plan year as required to be reported on the employee's Internal Revenue Service form W-2 for income tax withholding purposes. This amount shall include employee contributions picked up by the employer under paragraph (2) of subsection (h) of Section 414 of Title 26 of the United States Code; and any amounts deducted by the employer from the participant's salary, including deductions for tax-deferred retirement plans or insurance programs; deductions for participation in a tax-sheltered annuity within the meaning of Section 403(b) of Title 26 of the

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United States Code; deductions for participation in an eligible deferred compensation plan within the meaning of Section 457 of Title 26 of the United States Code; and deductions for participation in a plan that meets the requirements of Section l25 or subsection (k) of Section 401 of Title 26 of the United States Code.

(Added by Stats. 1999, Ch. 307.)

§ 22970.14. "Disability"

"Disability" means a disability of permanent or extended and uncertain duration, as determined by the board.

(Added by Stats. 1999, Ch. 307.)

§ 22970.15. "Early Retirement Age"

"Early retirement age" means the age at which the participant attains age 50 or qualifies for early retirement under Part 3 (commencing with Section 20000).

(Added by Stats. 1999, Ch. 307.)

§ 22970.16. "Eligible Employee"

(a) "Eligible employee" means:

(1) A person employed by the state, the university, a school employer, or a contracting agency who is a member of the system as defined pursuant to the provisions of Chapter 4 (commencing with Section 20370) of Part 3.

(2) A legislator, as defined pursuant to Section 9351.3, who is a member of the Legislators' Retirement System.

(3) A judge, as defined in Sections 75002 and 75502, who is a member of the Judges' Retirement System or the Judges' Retirement System II.

(4) A person employed by an employer who contracts with the board for the Supplemental Contributions Program.

(b) The board shall determine when the members of the system who are employed by a school employer or a contracting agency shall become eligible employees.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2001, Ch. 433; and by Stats. 2007, Ch. 511.)

§ 22970.17. "Employee Contribution"

"Employee contribution" means the amount contributed by the participating employee to his or her account in the plan.

(Added by Stats. 1999, Ch. 307.)

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§ 22970.175. "Employer"

"Employer" means any city, county, city and county, district, school district, community college district, county superintendent of schools, or other public agency, instrumentality, or political subdivision of the state.
(Added by Stats. 2007, Ch. 511.)

§ 22970.18. "Fund"

"Fund" means the Supplemental Contributions Program Fund.
(Added by Stats. 1999, Ch. 307.)

§ 22970.19. "Net Earnings"

"Net earnings" means the income earned, or losses incurred, after asset management fees, on the applicable investment fund options offered under the Supplemental Contributions Program, less the costs of administering the plan.
(Added by Stats. 1999, Ch. 307; amended by Stats. 2013, Ch. 755.)

§ 22970.20. "Participant"

"Participant" means an eligible employee who has contributions credited under the plan.
(Added by Stats. 1999, Ch. 307.)

§ 22970.21. "Plan"

"Plan" means the Supplemental Contributions Program.
(Added by Stats. 1999, Ch. 307.)

§ 22970.22. "Plan Year"

"Plan year" means the 12-month period commencing on any January 1 and ending on the following December 31.
(Added by Stats. 1999, Ch. 307.)

§ 22970.23. "Retirement"

"Retirement" means termination of all employment for the employer and completion of all conditions precedent to receiving a distribution for retirement.
(Added by Stats. 1999, Ch. 307.)

§ 22970.24. "System"

"System" means the Public Employees' Retirement System.
(Added by Stats. 1999, Ch. 307.)

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§ 22970.25. "Termination"

"Termination" means termination of employment by reason of separation from all service for all employers that participate in the system.
(Added by Stats. 1999, Ch. 307.)

§ 22970.26. "Valuation Date"

"Valuation date" means the date as of which the assets of the fund are valued.
(Added by Stats. 1999, Ch. 307.)

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Chapter 3. Administration of the Plan

SECTION
§ 22970.30. Powers and Duties of Board; Third-Party Administrator
§ 22970.31. Adoption of Plan Instrument; Amendment of Plan
§ 22970.32. Prohibited Transactions
§ 22970.33. Duties of Third-Party Administrator

§ 22970.30. Powers and Duties of Board; Third-Party Administrator

(a) Except as provided in this part, the plan shall be administered by the board in conformity with its powers and duties for administration of the system as set forth in Part 3 (commencing with Section 20000). The board shall, to the extent that it determines feasible, follow the procedures set forth in Article 7 (commencing with Section 20220) of Chapter 2 of Part 3.

(b) The board may retain a third-party administrator to perform investment management, recordkeeping, customer service, or other plan administration services and the expenses associated with such retention shall be paid from the fund.

(Added by Stats. 1999, Ch. 307.)

§ 22970.31. Adoption of Plan Instrument; Amendment of Plan

(a) The board shall adopt a plan instrument embodying the material terms and conditions of the plan consistent with this part and the applicable provisions of Title 26 of the United States Code.

(b) The board may, as it deems necessary or appropriate, amend the plan consistent with this part and the applicable provisions of Title 26 of the United States Code.

(c) A fiduciary of the plan shall not be liable for any loss that results from the individual investment fund option selected by a participant or the plan's designated default option for investment of contributions by participants who do not provide affirmative instruction on how to invest their contributions.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2013, Ch. 755.)

§ 22970.32. Prohibited Transactions

With regard to the plan, the board shall not engage in any transaction prohibited by subsection (b) of Section 503 of Title 26 of the United States Code.

(Added by Stats. 1999, Ch. 307.)

§ 22970.33. Duties of Third-Party Administrator

The board may require a third-party administrator, recordkeeper, custodian, or investment manager that is contracted with, or appointed by, the system to be subject to the duties set forth in Section 24032.

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(Added by Stats. 1999, Ch. 307.)

Chapter 4. The Fund

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§ 22970.40. Establishment of Fund
§ 22970.41. Control by Board
§ 22970.42. Custodian Bank or Trust Company
SECTION
§ 22970.43. Continuous Appropriation
§ 22970.44. Valuation of Assets

§ 22970.40. Establishment of Fund

The Supplemental Contributions Program Fund is hereby established as a special trust fund in the State Treasury to accept participant contributions to the plan.

(Added by Stats. 1999, Ch. 307.)

§ 22970.41. Control by Board

The board shall have control of the investment of the assets of the fund.

(Added by Stats. 1999, Ch. 307.)

§ 22970.42. Custodian Bank or Trust Company

Notwithstanding any other provision of law, the board may retain a bank or trust company to serve as a custodian for safekeeping, recordkeeping, delivery, securities valuation, investment performance reporting, or other services in connection with investment and administration of the fund.

(Added by Stats. 1999, Ch. 307.)

§ 22970.43. Continuous Appropriation

Notwithstanding Section 13340, all moneys in the fund are continuously appropriated, without regard to fiscal years or plan years, to the board to carry out the purposes of this part.

(Added by Stats. 1999, Ch. 307.)

§ 22970.44. Valuation of Assets

The assets of the fund shall be valued annually, and may be valued more frequently as prescribed by the board.

(Added by Stats. 1999, Ch. 307.)

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Chapter 5. Eligibility

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§ 22970.50. Election to Participate

§ 22970.50. Election to Participate

Any person who is an eligible employee may elect, in a manner prescribed by the board, to participate in the plan.

(Added by Stats. 1999, Ch. 307.)

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Chapter 6. Contributions

SECTION
§ 22970.55. Employee Contributions
§ 22970.56. Limitations on Contributions and Compensation
§ 22970.57. Prohibition of Employer Contributions or Payments
§ 22970.58. Transfer of Funds to Participant's Account

§ 22970.55. Employee Contributions

(a) Employee after-tax contributions to the plan shall be made solely at the option of the participant.

(b) Employee contributions may be made directly by the participant to the plan on a periodic basis as specified by the board, or may be withheld from the employee's compensation after taxes and submitted by the employer through payroll deduction.

(c) The board shall establish the minimum contribution amount.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2007, Ch. 511.)

§ 22970.56. Limitations on Contributions and Compensation

(a) Notwithstanding any other provision of law to the contrary, contributions to the plan shall be subject to the applicable limitations imposed by Section 415 of Title 26 of the United States Code, as that section may be amended from time to time and as these limits may be adjusted by the Commissioner of Internal Revenue.

(b) Notwithstanding any other provision of law or contract to the contrary, the amount of compensation that is taken into account in determining the allocations to each participant's account under the plan shall not exceed the applicable annual compensation limitations prescribed by paragraph (17) of subsection (a) of Section 401 of Title 26 of the United States Code, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue.

(c) The plan shall provide for the return of excess annual additions and the gain attributable thereto in accordance with Section 415 of Title 26 of the United States Code. In the event that a participant participates in more than one plan of the employer, any annual additions shall be deemed to consist first of annual additions to this plan.

(Added by Stats. 1999, Ch. 307.)

§ 22970.57. Prohibition of Employer Contributions or Payments

(a) There shall be no employer contributions to the plan.

(b) There shall be no employer payment of participant contributions on behalf of a participant in accordance with paragraph (2) of subsection (h) of Section 414 of Title 26 of the United States Code.

(Added by Stats. 1999, Ch. 307.)

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§ 22970.58. Transfer of Funds to Participant's Account

The board may permit a participant to transfer funds, including eligible rollover contributions, from an eligible retirement plan into this plan to the extent that the transfers are allowed under applicable federal and state laws, and pursuant to the terms and conditions established by the board. The plan may accept rollover contributions made in accordance with paragraph (4) of subdivision (b) of Section 22960.4 if the board establishes a separate rollover contribution account for each participant or beneficiary who makes such rollover contributions for the purpose of holding those contributions. Rollover contributions made in accordance with paragraph (4) of subdivision (b) of Section 22960.4, shall be invested in the applicable target retirement date fund investment fund option available under the plan until the participant elects another investment fund option available under the plan in accordance with the terms and conditions established by the board.

(Added by Stats. 2007, Ch. 511; amended by Stats. 2013, Ch. 755.)

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Chapter 7. Participation Accounts

SECTION
§ 22970.60. Crediting of Payments
§ 22970.61. Return of Contribution Made under Mistake of Fact
§ 22970.62. Allocation of Net Earnings to Participant's Account
§ 22970.63. Determination of Value of Participant's Account
§ 22970.64. Statement of Account

§ 22970.60. Crediting of Payments

(a) Contributions made to the plan by the participant shall be credited to the participant's account.

(b) Subject to the terms and conditions established by the board, a participant may elect to have all or a portion of the participant's account in one or more investment fund options available under the plan.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2007, Ch. 511; and by Stats. 2013, Ch. 755.)

§ 22970.61. Return of Contribution Made under Mistake of Fact

In the case of a contribution that is made under a mistake of fact, nothing in this part shall prohibit the return of that contribution to the participant within one year after discovery of the mistake.

(Added by Stats. 1999, Ch. 307.)

§ 22970.62. Allocation of Net Earnings to Participant's Account

The net earnings of the applicable investment fund option available under the plan shall be allocated to the participant's account as of each valuation date.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2013, Ch. 755.)

§ 22970.63. Determination of Value of Participant's Account

The value of each participant's account shall be determined at least once annually in a manner prescribed by the board.

(Added by Stats. 1999, Ch. 307.)

§ 22970.64. Statement of Account

A participant shall receive a statement that displays the value, or balance, of the participant's account and summarizes any credits to the account or other transactions.

(Added by Stats. 1999, Ch. 307.)

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Chapter 8. Rights to Allocations

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§ 22970.65. Vested Rights
§ 22970.66. Execution on Participant's Right to Allocations; Assignments

§ 22970.65. Vested Rights

A participant has a vested right to 100 percent of the value of the participant's account. The right accrues when the person becomes a participant.

(Added by Stats. 1999, Ch. 307.)

§ 22970.66. Execution on Participant's Right to Allocations; Assignments

The right of a participant to allocations to the participant's account is not subject to execution or any other process whatsoever, except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and is unassignable except as specifically provided under this part.

(Added by Stats. 1999, Ch. 307.)

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Chapter 9. Community Property

SECTION
§ 22970.70. Legal Separation or Dissolution; Division of Allocations
§ 22970.71. "Nonparticipant Spouse" Defined
§ 22970.72. Rights of Nonparticipant Spouse

§ 22970.70. Legal Separation or Dissolution; Division of Allocations

(a) Upon the legal separation or dissolution of marriage of a participant, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the community property is divided in accordance with subdivision (a) of Section 2610 of the Family Code, the court shall order that the allocations to the participant's account during the marriage be divided into two separate and distinct accounts in the name of the participant and the nonparticipant spouse, respectively. Any contributions or earnings that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the participant.

(Added by Stats. 1999, Ch. 307.)

§ 22970.71. "Nonparticipant Spouse" Defined

For purposes of this chapter, "nonparticipant spouse" means the spouse or the former spouse of the participant, who as a result of petitioning the court for the division of community property, has been awarded a portion of the allocations to the participant's account during the marriage to the participant.

(Added by Stats. 1999, Ch. 307.)

§ 22970.72. Rights of Nonparticipant Spouse

The nonparticipant spouse shall have the right to a lump sum distribution of the amount awarded to the nonparticipant spouse by the judgment or court order.

(Added by Stats. 1999, Ch. 307.)

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Chapter 10. Beneficiary

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§ 22970.75. Designation of Beneficiary
§ 22970.76. Protection of Rights of Surviving Spouse
SECTION
§ 22970.77. Share of Designated Beneficiary
§ 22970.78. Payments to Survivors in Absence of Designated Beneficiary

§ 22970.75. Designation of Beneficiary

The participant may designate any person or persons as beneficiaries to receive any amount that may be payable upon the death of the participant pursuant to the provisions of Section 22970.88. The beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the participant, and delivered to a plan representative prior to the participant's death.

(Added by Stats. 1999, Ch. 307.)

§ 22970.76. Protection of Rights of Surviving Spouse

Notwithstanding Section 22970.75, the participant's beneficiary designation shall not be given effect and shall be overridden to the extent that such a designation would impair the rights of any surviving spouse under applicable federal or state law.

(Added by Stats. 1999, Ch. 307.)

§ 22970.77. Share of Designated Beneficiary

Unless otherwise provided in the beneficiary designation form, each designated beneficiary shall be entitled to equal shares of the lump sum distribution that may be payable from the participant's account upon the death of the participant.

(Added by Stats. 1999, Ch. 307.)

§ 22970.78. Payments to Survivors in Absence of Designated Beneficiary

In the event the participant dies without a valid beneficiary designation on file, any balance remaining in the participant's account shall be payable to the participant's survivors in the following order:

(a) The participant's spouse.
(b) The participant's natural or adopted children.
(c) The participant's parents.
(d) The participant's estate.

(Added by Stats. 1999, Ch. 307.)

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Chapter 11. Eligibility for Distribution

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§ 22970.80. Termination for Other than Death, Disability, or Retirement
§ 22970.81. Application for Distribution for Retirement
§ 22970.82. Application for Distribution for Disability
§ 22970.83. Death Benefit for Beneficiaries
§ 22970.84. Form of Distribution for Participants or Beneficiaries

§ 22970.80. Termination for Other than Death, Disability, or Retirement

(a) Upon termination for any reason other than death, disability, or retirement, a participant is entitled to a lump sum distribution of the balance of the participant's account within a reasonable time following the valuation date immediately following the date of the application.

(b) Application for a distribution for termination of employment shall be made on a distribution request form and in the manner prescribed by the board.

(c) All employers with which the participant is employed as a member of the system shall certify on a form prescribed by the board that the participant's employment has terminated.

(Added by Stats. 1999, Ch. 307.)

§ 22970.81. Application for Distribution for Retirement

(a) Upon termination, a participant may apply for a distribution for retirement, provided the retirement date is no earlier than the date on which the participant attains the early retirement age pursuant to the provisions of Part 3 (commencing with Section 20000). The retirement benefit is a distribution of the balance of the participant's account within a reasonable time following the valuation date immediately following the date of the application.

(b) Application for a distribution for retirement shall be made on a distribution request form and in the manner prescribed by the board.

(c) All employers with which the participant is employed as a member of the system, shall certify on a form prescribed by the board that the participant's employment has terminated.

(Added by Stats. 1999, Ch. 307.)

§ 22970.82. Application for Distribution for Disability

(a) Upon termination, a participant may apply for a distribution for disability. A distribution for disability shall become payable only upon a determination by the board that the participant has a disability of permanent or extended and uncertain duration. The disability benefit is a distribution of the balance of the participant's account within a reasonable time following the valuation date immediately following the date of the application.

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(b) Application for a distribution for disability shall be made on a distribution request form and in the manner prescribed by the board.

(c) All employers with which the participant is employed as a member of the system shall certify on a form prescribed by the board that the participant's employment has terminated.

(Added by Stats. 1999, Ch. 307.)

§ 22970.83. Death Benefit for Beneficiaries

(a) Upon receipt of proof of a participant's death, the beneficiary or beneficiaries shall be entitled to a death benefit that is a lump sum distribution of the balance remaining in the participant's account.

(b) If the participant died prior to termination of employment or distribution of all of the contributions and earnings credited to the participant's account, the lump sum distribution shall be an amount that is equal to the balance remaining in the participant's account.

(c) Application for the distribution shall be made on an application form and in the manner prescribed by the board.

(Added by Stats. 1999, Ch. 307.)

§ 22970.84. Form of Distribution for Participants or Beneficiaries

(a) Any participant who is entitled to a distribution may elect to receive the distribution in either of the following forms:

(1) A single lump sum payment.

(2) Substantially level installment payments for a period of years that extends no longer than the life expectancy of the participant.

(b) Any beneficiary who is entitled to a distribution may elect to receive the distribution in either of the following forms:

(1) A single lump sum payment.

(2) Substantially level installment payments for a period of years that extends no longer than the life expectancy of the beneficiary.

(Added by Stats. 1999, Ch. 307.)

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Chapter 12. Distributions and Rollovers

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§ 22970.85.	Beginning Date of Distributions
§ 22970.855.	Distributions—Early Withdrawals
§ 22970.86.	Request and Payment of Death Benefit
§ 22970.87.	Direct Rollover to Eligible Retirement Plan
§ 22970.88.	Payments—Tax Withholding and Reporting
§ 22970.89.	Cessation of Plan's Obligations

§ 22970.85. Beginning Date of Distributions

Notwithstanding any other provision of this part, a participant or beneficiary shall not be permitted to elect a distribution under this part that does not satisfy the requirements of paragraph (9) of subsection (a) Section 401 of Title 26 of the United States Code, including the incidental death benefit requirements of subparagraph (G) of paragraph (9) of subsection (a) of Section 401 and the regulations thereunder. The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(a) In the case of a lump sum distribution to the participant, the lump sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70½ years or the calendar year in which the participant terminates employment.

(b) In the case of a distribution to the participant in the form of periodic payments, payment shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70½ years or the calendar year in which the participant terminates employment.

(c) In the case of a benefit payable on account of the participant's death after distributions to the participant have commenced in the form of periodic payments, the remainder of the participant's account shall be distributed at least as rapidly as if the participant had not died.

(d) In the case of a benefit payable on account of the participant's death before distributions to the participant have commenced, distributions shall be paid no later than December 31 of the calendar year in which the fifth anniversary of the participant's date of death occurs unless the benefit is paid over a period not extending beyond the life expectancy of the beneficiary and distributions commence not later than December 31 of the calendar year immediately following the calendar year in which the participant died, or in the event that the beneficiary is the participant's spouse, distributions must commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(2) December 31 of the calendar year in which the participant would have attained the age of 70½ years.

(Added by Stats. 1999, Ch. 307.)

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§ 22970.855. Distributions—Early Withdrawals

The board may permit a participant to withdraw some or all of his or her after-tax contributions without requiring the participant to terminate from the plan to the extent that this in-service distribution is allowed under applicable federal and state laws, and pursuant to the terms and conditions established by the board. A participant may apply for a distribution of amounts held in the participant's separate rollover contribution account established pursuant to Section 22970.58 at any time before that participant's termination of employment, to the extent that an in-service distribution is allowed under applicable federal and state law, and pursuant to the terms and conditions established by the board.

(Added by Stats. 2007, Ch. 511; amended by Stats. 2013, Ch. 755.)

§ 22970.86. Request and Payment of Death Benefit

(a) Distributions from the plan shall be made as soon as practicable after the first valuation date immediately following the date of the request for distribution calculated based upon the valuation date immediately preceding the distribution.

(b) Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code or any other law to the contrary, the death benefit payable under the plan may be requested by the beneficiary and paid as soon as practicable following receipt of proof of the participant's death.

(Added by Stats. 1999, Ch. 307.)

§ 22970.87. Direct Rollover to Eligible Retirement Plan

(a) If a person becomes entitled to a distribution from the plan that constitutes an eligible rollover distribution within the meaning of paragraph (31) of subsection (a) of Section 401 of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the eligible rollover distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of paragraph (31) of subsection (a) of Section 401, as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution by the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(b) Notwithstanding any other provision of this part or Part 3 (commencing with Section 20000), a participant may at any time, in writing, authorize the board to apply any or all of the participant's account to payment of any contributions required as a member of the system or payable to the system at the option of the member pursuant to any provision of Part 3 (commencing with Section 20000), except the normal monthly contributions required in Article 1 (commencing with Section 20671) of Chapter 8 of Part 3. Any distribution or transfer made pursuant

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to this subdivision shall comply with applicable provisions of Title 26 of the United States Code.

(Added by Stats. 1999, Ch. 307.)

§ 22970.88. Payments—Tax Withholding and Reporting

Except as otherwise provided in this part, all distributions shall be made directly from the fund to the participant or beneficiary. To the extent required by federal and state law, income and other taxes shall be withheld from each distribution, and the payment shall be reported to the appropriate governmental agency or agencies.

(Added by Stats. 1999, Ch. 307.)

§ 22970.89. Cessation of Plan's Obligations

(a) The plan's obligations to a participant, beneficiary, or nonparticipant spouse who elected a lump-sum distribution cease upon distribution of the lump-sum benefit.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant, beneficiary, or nonparticipant spouse and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant, beneficiary, or nonparticipant spouse constitutes distribution of the benefit.

(3) If the participant, beneficiary, or nonparticipant spouse has elected on a form prescribed by the board to transfer all or a specific portion of the account that is eligible for a direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of an eligible retirement plan, deposit in the United States mail of a notice that the requested transfer has been made constitutes distribution of the benefit.

(b) The plan's obligations to a participant or beneficiary who elected to receive a benefit in the form of partial distributions cease upon distribution of the final payment.

(1) Deposit in the United States mail of a warrant drawn in favor of the participant or beneficiary and addressed to the latest address on file for that person constitutes distribution of the benefit.

(2) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant or beneficiary constitutes distribution of the benefit.

(c) Distribution under paragraph (1), (2), or (3) of subdivision (a) or paragraph (1) or (2) of subdivision (b) pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons constitutes a complete discharge and release of the board, system, and plan from liability for payments.

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(d) This section shall not apply to a permissible in-service distribution pursuant to Section 22970.855 if the participant account is only partially distributed.

(Added by Stats. 1999, Ch. 307; amended by Stats. 2007, Ch. 511; and by Stats. 2013, Ch. 755.)

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ARTICLE 1. GENERAL PROVISIONS

§ 7500. Retirement Plan Contributions: Gender Equality

Any city with a population of 1,000,000 or more, and any agency thereof, which has established any pension and retirement plan which requires officers and employees of one sex to pay greater contributions than those of another sex who are the same age shall revise the plan so that the contributions are the same commencing with contributions for service on and after January 1, 1975. This section shall not be construed as requiring or authorizing an increase in the contributions of any members of a pension and retirement plan.

This section shall not be applicable to the Public Employees' Retirement System.

(Added by Stats. 1974, Ch. 1478.)

§ 7500.5. City of San Diego—Social Security Coverage

(a) This section shall only apply to the City of San Diego.

(b) For the purposes of this section, the following definitions shall apply:

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

(2) "Local public employer" means the City of San Diego.

(c) A local public employer shall provide coverage under the federal system to all employees who are not covered under a defined benefit plan.

(d) The requirements of this section shall not apply with regard to replacing or changing an employer's defined contribution plan that was in place on July 1, 2012, unless the defined contribution plan will replace or change the employer's existing defined benefit plan.

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(Added by Stats. 2012, Ch. 853.)

§ 7501. Legislative Intent and Purpose

It is the intent and purpose of the Legislature, in enacting this chapter, to safeguard the solvency of all public retirement systems and funds. The Legislature finds and declares that public agencies maintaining retirement systems can benefit from periodic and independent analysis of their financial condition. It is the purpose of Sections 7502, 7503, and 7504 to enable the State Controller to gather information to compare and evaluate the financial condition of such systems and to make such comparisons and evaluations.

(Added by Stats. 1977, Ch. 928, effective 9/20/77, operative 1/1/78; amended by Stats. 1978, Ch. 388, effective 7/11/78, and by Ch. 821.)

§ 7502. State Controller Review of Annual Report

The State Controller shall review the annual financial report of each state and local public retirement system submitted pursuant to Section 7504 giving particular consideration to the adequacy of funding of each system. The State Controller shall also review the triennial valuation of each public retirement system submitted pursuant to Section 7504 and shall give particular consideration to the assumption concerning the inflation element in salary and wage increases, mortality, service retirement rates, withdrawal rates, disability retirement rates, and rate of return on total assets.

The State Controller shall establish an advisory committee which shall include enrolled actuaries, as defined in Section 7504, and state and local public retirement system administrators, to assist in carrying out the duties imposed by this section.

(Added by Stats. 1977, Ch. 928, effective 9/20/77, operative 1/1/78; amended by Stats. 1978, Ch. 388, effective 7/11/78.)

§ 7503. Annual Report: GAAP

All state and local public retirement systems shall prepare an annual report in accordance with generally accepted accounting principles.

(Added by Stats. 1977, Ch. 928, effective 9/20/77, operative 1/1/78; amended by Stats. 1978, Ch. 388, effective 7/11/78.)

§ 7504. Actuarial Valuation and Audit

(a) All state and local public retirement systems shall, not less than triennially, secure the services of an enrolled actuary. An enrolled actuary, for the purposes of this section, means an actuary enrolled under subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974 (Public Law 93-406) and who has demonstrated experience in public retirement systems. The actuary shall

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perform a valuation of the system utilizing actuarial assumptions and techniques established by the agency that are, in the aggregate, reasonably related to the experience and the actuary's best estimate of anticipated experience under the system. Any differences between the actuarial assumptions and techniques used by the actuary that differ significantly from those established by the agency shall be disclosed in the actuary's report and the effect of the differences on the actuary's statement of costs and obligations shall be shown.

(b) All state and local public retirement systems shall secure the services of a qualified person to perform an attest audit of the system's financial statements. A qualified person means any of the following:

(1) A person who is licensed to practice as a certified public accountant in this state by the California Board of Accountancy.

(2) A person who is registered and entitled to practice as a public accountant in this state by the California Board of Accountancy.

(3) A county auditor in any county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3).

(4) A county auditor in any county having a pension trust and retirement plan established pursuant to Section 53216.

(c) All state and local public retirement systems shall submit audited financial statements to the State Controller at the earliest practicable opportunity within six months of the close of each fiscal year. However, the State Controller may delay the filing date for reports due in the first year until the time as report forms have been developed that, in his or her judgment, will satisfy the requirements of this section. The financial statements shall be prepared in accordance with generally accepted accounting principles in the form and manner prescribed by the State Controller. The penalty prescribed in Section 53895 shall be invoked for failure to comply with this section. Upon a satisfactory showing of good cause, the State Controller may waive the penalty for late filing provided by this subdivision.

(d) The State Controller shall compile and publish a report annually on the financial condition of all state and local public retirement systems containing, but not limited to, the data required in Section 7502. The report shall be published within 12 months of the receipt of the information, and in no case later than 18 months after the end of the fiscal year upon which the information in the report is based.

(Added by Stats. 1977, Ch. 928, effective 9/20/77, operative 1/1/78; amended by Stats. 1978, Ch. 388, effective 7/11/78; by Stats. 1979, Ch. 20, effective 4/3/79; by Stats. 1980, Ch. 1102; by Stats. 1981, Ch. 800; by Stats. 2000, Ch. 1055, effective 9/30/00; and by Stats. 2008, Ch. 369.)

§ 7505. Benefit Transmittal to Bank or Other Institution

Every state and local public retirement system shall permit any person entitled to the receipt of benefits to designate that payment of such benefits shall be transmitted to a bank, savings and loan association, or credit union for deposit in the person's account, and the transmittal of such payment pursuant to this section shall discharge the public agency's obligations in respect to such payment.

(Added by Stats. 1979, Ch. 454.)

§ 7506. Benefit Direct Deposit: Electronic Fund Transfer

Notwithstanding any other provision of law, any person entitled to the receipt of benefits from any state retirement system 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 his or her choice under a program for direct deposit by electronic transfer established by the Controller pursuant to Section 7506.5. The direct deposit shall discharge the state agency's obligation in respect to that payment.

(Added by Stats. 1982, Ch. 1270 and by Ch. 1317.)

§ 7506.5. Establishment of Direct Deposit Program

The Controller shall make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and shall establish a program, for the direct deposit by electronic fund transfer of the benefits, after any withholding required by law and authorized deductions, of any person entitled to the receipt of benefits from any state retirement system who authorizes the direct deposit thereof by electronic fund transfer into the person's account at the financial institution of his or her choice.

(Added by Stats. 1982, Ch. 1317; amended by Stats. 1985, Ch. 600 and by Ch. 1344, operative January 1, 1987.)

§ 7507. Actuarial Impact Required Before Benefit Increases

(a) For the purpose of this section:

(1) "Actuary" means an actuary who is an associate or fellow of the Society of Actuaries.

(2) "Future annual costs" includes, but is not limited to, annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability.

(b) (1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before

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authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c) (1) (A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the Director of Human Resources.

(e) The requirements of this section do not apply to a school district or a county office of education, which shall instead comply with requirements regarding public notice of, and future cost determination for, benefit changes that have been enacted to regulate these entities. These requirements include, but are not limited to, those enacted by Chapter 1213 of the Statutes of 1991 and by Chapter 52 of the Statutes of 2004.

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(Added by Stats. 1977, Ch. 941; amended by Stats. 1980, Ch. 481; repealed and added by Stats. 2008, Ch. 371; amended by Stats. 2012, Ch. 665.)

Note: Repealed and added by Stats. 2008, Ch. 371.

§ 7507.2. California Actuarial Advisory Panel

(a) There is hereby enacted the California Actuarial Advisory Panel. The panel shall provide impartial and independent information on pensions, other postemployment benefits, and best practices to public agencies and shall meet quarterly.

(b) The responsibilities of the California Actuarial Advisory Panel shall include, but are not limited to:

(1) Defining the range of actuarial model policies and best practices for public retirement plan benefits, including pensions and other postemployment benefits.

(2) Developing pricing and disclosure standards for California public sector benefit improvements.

(3) Developing quality control standards for California public sector actuaries.

(4) Gathering model funding policies and practices.

(5) Replying to policy questions from public retirement systems in California.

(6) Providing comment upon request by public agencies.

(c) The California Actuarial Advisory Panel shall consist of eight members. Each member shall be an actuary, as defined in Section 7507, with public sector clients. Members shall be appointed by the entities listed below, and each member shall serve a three-year term, provided that, in the initial appointments only, the panelists named by the University of California, the Senate, and one of the panelists named by the Governor shall serve two-year terms. The Governor shall appoint two panelists, and one panelist shall be appointed by each of the following:

(1) The Teachers' Retirement Board.

(2) The Board of Administration of the Public Employees' Retirement System.

(3) The State Association of County Retirement Systems.

(4) The Board of Regents of the University of California.

(5) The Speaker of the Assembly.

(6) The Senate Committee on Rules.

(d) The California Actuarial Advisory Panel shall be located in the Controller's office, which shall provide support staff to the panel.

(e) The opinions of the California Actuarial Advisory Panel are nonbinding and advisory only. The opinions of the panel shall not, in any case, be used as the basis for litigation.

(f) A member of the California Actuarial Advisory Panel shall receive reimbursement for expenses that shall be paid by the authority that appointed the member.

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(g) The California Actuarial Advisory Panel shall report to the Legislature on or before February 1 of each year.

(Added by Stats. 2008, Ch. 371.)

§ 7507.5. UC Retirement System: Notice of Changes

It is the intent of the Legislature that the Regents of the University of California provide written notice to the Legislature of any proposed changes to retirement plan benefits, employer or employee contribution rates, or actuarial assumptions affecting the University of California Retirement System, at least 60 days prior to the effective date thereof. The written notice shall be provided to the Joint Legislative Budget Committee and the fiscal subcommittees and shall consist of:

(a) A description and explanation of each specific proposed change to the benefit structure, contribution rates, or actuarial assumptions.

(b) The actuarial impact upon future annual costs of each proposed change.

(Added by Stats. 1984, Ch. 268, effective 6/30/84.)

§ 7508. State Retiree: Service on Public Board or Commission

A retired member of a state retirement system, other than the University of California Retirement System, the Judges' Retirement System, the Judges' Retirement System II, and the State Teachers' Retirement System, may, notwithstanding Section 9359.12, serve on a public board or commission and be entitled to receive for that service, per diem compensation for every day or portion thereof of actual attendance at meetings of the board or commission or any committee thereof, and necessary traveling expenses incurred in connection with the performance of his or her official duties, without loss or interruption of benefits provided by the system, so long as the service does not exceed a total of 50 meeting days.

This section shall not apply to service as a member of a board or commission the annual salary for which is prescribed by Chapter 6 (commencing with Section 11550) of Division 3 of Title 2.

(Added by Stats. 1986, Ch. 1458, effective 9/30/86; amended by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 7508.5. Former State Pension Board Members and Executive Officers: Influence of Legislation or Action

Except as otherwise provided in Section 20098 or 31528 of this code, or Section 22212.5 of the Education Code, an individual who was a member of the retirement board of a public pension or retirement system, as defined in subdivision (h) of Section 17 of Article XVI of the California Constitution, or an administrator, executive officer, investment officer, or general counsel of that board, shall not, for a period of two years after leaving that position, for

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compensation, act as agent or attorney for, or otherwise represent, any other person except the public entity maintaining that pension or retirement system, by making any formal or informal appearance before, or any oral or written communication to, the pension or retirement system, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

(Added by Stats. 2009, Ch. 301.)

§ 7509. Applicability of Interest Rate Restrictions in State Constitution

(a) The restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any loans made by, or forbearances of, any state or local public retirement system, including, but not limited to, any public retirement system authorized and regulated by the State Teachers' Retirement Law, the Public Employees' Retirement Law, the County Employees Retirement Law of 1937, any public retirement system administered by the Teachers Retirement Board or Board of Administration of the Public Employees' Retirement System, or any public retirement system acting pursuant to the laws of this state or the laws of any local agency.

(b) For the purposes of this section, "local agency" means county, city, city and county, district, school district, or any public or municipal corporation, political subdivision, or other public agency of the state, or any instrumentality of one or more of these agencies.

(c) This section creates and authorizes any state or local retirement system as an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution.

(Added by Stats. 1982, Ch. 821; amended by Stats. 2006, Ch. 538.)

§ 7510. Real Property Investments

(a)(1) Except as provided in subdivision (b), a public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, shall pay annually to the city or county, in whose jurisdiction the real property is located and has been removed from the secured roll, a fee for general governmental services equal to the difference between the amount that would have accrued as real property secured taxes and the amount of possessory interest unsecured taxes paid for that property. The governing bodies of local entities may adopt ordinances and regulations authorizing retirement systems to invest assets in real property subject to the foregoing requirements.

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(2) This subdivision shall not apply to any retirement system which is established by a local governmental entity if that entity is presently authorized by statute or ordinance to invest retirement assets in real property.

(3) This subdivision shall not apply to property owned by any state public retirement system.

(b)(1) Whenever a state public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, leases the property, the lease shall provide, pursuant to Section 107.6 of the Revenue and Taxation Code, that the lessee's possessory interest may be subject to property taxation and that the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on that interest. The lease shall also provide that the full cash value, as defined in Sections 110 and 110.1 of the Revenue and Taxation Code, of the possessory interest upon which property taxes will be based shall equal the greater of (A) the full cash value of the possessory interest, or (B), if the lessee has leased less than all of the property, the lessee's allocable share of the full cash value of the property that would have been enrolled if the property had been subject to property tax upon acquisition by the state public retirement system. The full cash value as provided for pursuant to either (A) or (B) of the preceding sentence shall reflect the anticipated term of possession if, on the lien date described in Section 2192 of the Revenue and Taxation Code, that term is expected to terminate prior to the end of the next succeeding fiscal year. The lessee's allocable share shall, subject to the preceding sentence, be the lessee's leasable square feet divided by the total leasable square feet of the property.

(2) Except as provided in this subdivision, the property shall be assessed and its taxes computed and collected in the same manner as privately owned property. The lessee's possessory interest shall be placed on the unsecured roll and the tax on the possessory interest shall be subject to the collection procedures for unsecured property taxes.

(3) An investment by a state public retirement system in a legal entity that invests assets in real property and improvements thereon shall not constitute an investment by the state public retirement system of assets in real property and improvements thereon. For purposes of this paragraph, "legal entity" includes, but is not limited to, partnership, joint venture, corporation, trust, or association. When a state public retirement system invests in a legal entity, the state public retirement system shall be deemed to be a person for the purpose of determining a change in ownership under Section 64 of the Revenue and Taxation Code.

(4) Notwithstanding any other provision of law, fees charged pursuant to this section and collected prior to July 1, 1992, shall be deemed valid and not refundable under any circumstance. Notwithstanding any other provision of law, fees, interest and penalties, if any, asserted to be due pursuant to this section that were not charged or collected prior to July 1, 1992, shall be deemed invalid and not collectable under any circumstance.

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(5) This subdivision shall apply to the assessment, computation, and collection of taxes for the fiscal year beginning on July 1, 1992, and each fiscal year thereafter. For the 1992-93 and 1993-94 fiscal years, in the case where a lessee's possessory interest existed for less than the full fiscal year for which the tax was levied, the amount of tax shall be prorated in accordance with the number of months for which the lessee's interest existed.

(Added by Stats. 1982, Ch. 24; amended by Stats. 1992, Ch. 1158, effective 9/29/92; by Stats. 1993, Ch. 1187; and by Stats. 1994, Ch. 1281, effective 9/30/94.)

§ 7511. Liability Insurance: Fiduciaries

Notwithstanding any other provision to the contrary:

(a) A public retirement system may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by the fiduciary.

(b) A fiduciary may purchase insurance to cover liability under this section from and for his or her own account.

(c) An employer or an employee organization may purchase insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to an employee benefit plan.

(Added by Stats. 1984, Ch. 1503.)

§ 7512. Distribution of Annual Report

Each state and local public pension or retirement system shall, on and after the 90th day following the completion of the annual audit of the system, mail or otherwise provide to any member who makes a request therefor and pays, if required, a fee, a concise annual report on the investments and earnings of the system and other related matters. The report shall be published in a low-cost format.

Each local public pension or retirement system may impose a fee for each copy of the report in an amount sufficient to pay all costs incurred in the preparation and dissemination of the report.

(Added by Stats. 1985, Ch. 655; amended by Stats. 1991, Ch. 281.)

§ 7513. Rollover Distribution to Eligible Retirement Plan

(a) In the case of a state or local retirement system or plan that is subject to Section 401(a)(31) of the Internal Revenue Code, if, under the terms of the system or plan, a person becomes entitled to a distribution that constitutes an "eligible rollover distribution" within the meaning of Section 401(a)(31)(C) of the Internal Revenue Code, the person may elect, under terms and conditions to be established

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by the administrator of the system or plan, to have the distribution or a portion thereof paid directly to a plan that constitutes an "eligible retirement plan" within the meaning of Section 401(a)(31)(D) of the Internal Revenue Code, as specified by the person. Upon the exercise of the election by a person with respect to a distribution or portion thereof, the distribution by the system or plan of the amount so designated, once distributable under the terms of the system or plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(b) The purpose and intent of this section is to enable the state and local retirement systems and plans that are subject to Section 401(a) (31) of the Internal Revenue Code of 1986, as amended, to comply with the requirements of that section regarding the provision of an election for direct rollover of certain plan distributions.

(Added by Stats. 1992, Ch. 1047.)

§ 7513.5. Northern Ireland Investments: Annual Report

(a) On or before the first day of March of each year, the Teachers' Retirement Board and the Board of Administration of the Public Employees' Retirement System, respectively, shall investigate and report to the Legislature on the extent to which United States and international corporations operating in Northern Ireland, in which the assets of the State Teachers' Retirement System and the Public Employees' Retirement System are invested, adhere, in compliance with the law applicable in Northern Ireland, to the principles of nondiscrimination in employment and freedom of workplace opportunity.

(b) The Teachers' Retirement Board and the Board of Administration of the Public Employees' Retirement System, respectively, shall compile a list of domestic and international corporations that, directly or through a subsidiary, do business in Northern Ireland, and in whose stocks or obligations it has invested, and determine whether each corporation on the list has, during the preceding year, taken substantial action, in compliance with the law applicable in Northern Ireland, designed to lead toward the achievement of the following goals:

(1) Increased representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical, and technical jobs.

(2) Adequate security for the protection of minority employees both at the workplace and while traveling to and from work.

(3) Banning of provocative religious or political emblems from the workplace.

(4) Public advertisement of all job openings and the use of special recruitment efforts to attract applicants from underrepresented religious groups.

(5) Establishment of layoff, recall, and termination procedures which do not, in practice, favor particular religious groupings.

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(6) Abolition of job reservations, apprenticeship restrictions, and differential employment criteria, which discriminate on the basis of religion or ethnic origin.

(7) The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

(8) The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancement.

(9) The appointment of senior management staff members to oversee affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

(c) Whenever feasible and consistent with their fiduciary responsibility, the Teachers' Retirement Board and the Board of Administration of the Public Employees' Retirement System, respectively, shall support shareholder resolutions designed to encourage domestic and international corporations in which the Teachers' Retirement Board and the Board of Administration of the Public Employees' Retirement System, respectively, has invested to pursue, in compliance with the law applicable in Northern Ireland, a policy of affirmative action in Northern Ireland in accordance with the goals listed in subdivision (b).

(Added by Stats. 1999, Ch. 341.)

§ 7513.6. Sudan Investments

(a) As used in this section, the following definitions shall apply:

(1) "Active business operations" means a company engaged in business operations that provide revenue to the government of Sudan or a company engaged in oil-related activities.

(2) "Board" means the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System, as applicable.

(3) "Business operations" means maintaining, selling, or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Sudan, including the ownership or possession of real or personal property located in Sudan.

(4) "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profitmaking purposes or to otherwise secure economic advantage. "Company" also means a company owned or controlled, either directly or indirectly, by the government of Sudan, that is established or organized under the laws of or has its principal place of business in the Republic of the Sudan.

(5) "Government of Sudan" means the government of Sudan or its instrumentalities.

(6) "Invest" or "investment" means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water

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company or corporation, bonds issued by the government or a political subdivision of Sudan, corporate bonds or other debt instruments issued by a company, or the commitment of funds or other assets to a company, including a loan or extension of credit to that company.

(7) "Military equipment" means weapons, arms, or military defense supplies.

(8) "Oil-related activities" means, but is not limited to, the export of oil, extracting or producing oil, exploration for oil, or the construction or maintenance of a pipeline, refinery, or other oil field infrastructure.

(9) "Public employee retirement funds" means the Public Employees' Retirement Fund described in Section 20062 of this code, and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

(10) "Research firm" means a reputable, neutral third-party research firm.

(11) "Substantial action" means a boycott of the government of Sudan, curtailing business in Sudan until that time described in subdivision (m), selling company assets, equipment, or real and personal property located in Sudan, or undertaking significant humanitarian efforts in the eastern, southern, or western regions of Sudan.

(12) "Sudan" means the Republic of the Sudan, a territory under the administration or control of the Sudan, including but not limited to, the Darfur region, or an individual, company, or public agency located in Khartoum, northern Sudan, or the Nile River Valley that supports the Republic of the Sudan.

(b) The board shall not invest public employee retirement funds in a company with business operations in Sudan that meets all of the following criteria:

(1) The company is engaged in active business operations in Sudan. If that company is not engaged in oil-related activities, that company also lacks significant business operations in the eastern, southern, and western regions of Sudan.

(2) Either of the following apply:

(A) The company is engaged in oil-related activities or energy or power-related operations, or contracts with another company with business operations in the oil, energy, and power sectors of Sudan, and the company failed to take substantial action related to the government of Sudan because of the Darfur genocide.

(B) The company has demonstrated complicity in the Darfur genocide.

(c) Notwithstanding subdivision (b), the board shall not invest public employee retirement funds in a company that supplies military equipment within the borders of Sudan. If a company provides equipment within the borders of Sudan that may be readily used for military purposes, including, but not limited to, radar systems and military-grade transport vehicles, there shall also be a strong presumption against investing in that company unless that company implements safeguards to prevent the use of that equipment for military purposes.

(d) (1) The board shall, without regard to the provisions regarding competitive bidding, contract with a research firm or firms to determine those companies that have business operations in Sudan. Those research firms shall, in the aggregate,

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obtain data on a majority of companies with business operations in Sudan. On or before March 30, 2007, those research firms shall report any findings to the board and those research firms shall submit further findings to the board if there is a change of circumstances in Sudan.

(2) In addition to the reports described in paragraph (1), the board shall take all of the following actions no later than March 30, 2007:

(A) Review publicly available information regarding companies with business operations in Sudan.

(B) Contact other institutional investors that invest in companies with business operations in Sudan.

(C) Send written notice to a company with business operations in Sudan that the company may be subject to this section.

(e) (1) The board shall determine, by the next applicable board meeting and based on the information and reports described in subdivision (d), if a company meets the criteria described in subdivision (b) or (c). If the board plans to invest or has investments in a company that meets the criteria described in subdivision (b) or (c), that planned or existing investment shall be subject to subdivisions (g) and (h).

(2) Investments of the board in a company that does not meet the criteria described in subdivision (b) or (c) or does not have active business operations in Sudan are not subject to subdivision (h), provided that the company does not subsequently meet the criteria described in subdivision (b) or (c) or engage in active business operations. The board shall identify the reasons why that company does not satisfy the criteria described in subdivision (b) or (c) or does not engage in active business operations in the report to the Legislature described in subdivision (i).

(f) (1) Notwithstanding subdivision (e), if the board's investment in a company described in subdivision (b) or (c) is limited to investment via an externally and actively managed commingled fund, the board shall contact that fund manager in writing and request that the fund manager remove that company from the fund as described in subdivision (h). On or before June 30, 2007, if the fund or account manager creates a fund or account devoid of companies described in subdivision (b) or (c), the transfer of board investments from the prior fund or account to the fund or account devoid of companies with business operations in Sudan shall be deemed to satisfy subdivision (h).

(2) If the board's investment in a company described in subdivision (b) or (c) is limited to an alternative fund or account, the alternative fund or account manager creates an actively managed commingled fund that excludes companies described in subdivision (b) or (c), and the new fund or account is deemed to be financially equivalent to the existing fund or account, the transfer of board investments from the existing fund or account to the new fund or account shall be deemed to satisfy subdivision (h). If the board determines that the new fund or account is not

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financially equivalent to the existing fund, the board shall include the reasons for that determination in the report described in subdivision (i).

(3) The board shall make a good faith effort to identify any private equity investments that involve companies described in subdivision (b) or (c) or are linked to the government of Sudan. If the board determines that a private equity investment clearly involves a company described in subdivision (b) or (c) or is linked to the government of Sudan, the board shall consider, at its discretion, if those private equity investments shall be subject to subdivision (h). If the board determines that a private equity investment clearly involves a company described in subdivision (b) or (c) or is linked to the government of Sudan and the board does not take action as described in subdivision (h), the board shall include the reasons for its decision in the report described in subdivision (i).

(g) Except as described in subdivision (f) or paragraph (2) of subdivision (e), the board, in the board's capacity of shareholder or investor, shall notify any company described in paragraph (1) of subdivision (e) that the company is subject to subdivision (h) and permit that company to respond to the information and reports described in subdivision (d). The board shall request that the company take substantial action no later than 90 days from the date the board notified the company under this subdivision. If the board determines that a company has taken substantial action or has made sufficient progress towards substantial action before the expiration of that 90-day period, that company shall not be subject to subdivision (h). The board shall, at intervals not to exceed 90 days, continue to monitor and review the progress of the company until that company has taken substantial action in Sudan. A company that fails to complete substantial action or continue to make sufficient progress towards substantial action by the next time interval shall be subject to subdivision (h).

(h) If a company described in paragraph (1) of subdivision (e) fails to complete substantial action by the time described in subdivision (g), the board shall take the following actions:

(1) The board shall not make additional or new investments or renew existing investments in that company.

(2) The board shall liquidate the investments of the board in that company no later than 18 months after this subdivision applies to that company. The board shall liquidate those investments in a manner to address the need for companies to take substantial action in Sudan and consistent with the board's fiduciary responsibilities as described in Section 17 of Article XVI of the California Constitution.

(i) On or before January 1, 2008, and every year thereafter, the board shall file a report with the Legislature. The report shall describe the following:

(1) A list of investments the board has in companies with business operations in Sudan, including, but not limited to, the issuer, by name, of the stock, bonds, securities, and other evidence of indebtedness.

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(2) A detailed summary of the business operations a company described in paragraph (1) has in Sudan and whether that company satisfies all of the criteria in subdivision (b) or (c).

(3) Whether the board has reduced its investments in a company that satisfies the criteria in subdivision (b) or (c).

(4) If the board has not completely reduced its investments in a company that satisfies the criteria in subdivision (b) or (c), when the board anticipates that the board will reduce all investments in that company or the reasons why a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(5) Any information described in subdivision (e).

(6) A detailed summary of investments that were transferred to funds or accounts devoid of companies with business operations in Sudan as described in subdivision (f).

(j) If the board voluntarily sells or transfers all of its investments in a company with business operations in Sudan, this section shall not apply except that the board shall file a report with the Legislature related to that company as described in subdivision (i).

(k) Nothing in this section shall require the board to take action as described in this section unless the board determines, in good faith, that the action described in this section is consistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(l) Subdivision (h) shall not apply to any of the following:

(1) Investments in a company that is primarily engaged in supplying goods or services intended to relieve human suffering in Sudan.

(2) Investments in a company that promotes health, education, journalistic, or religious activities in or welfare in the western, eastern, or southern regions of Sudan.

(3) Investments in a United States company that is authorized by the federal government to have business operations in Sudan.

(m) This section shall remain in effect only until one of the following occurs, and as of the date of that action, is repealed:

(1) The government of Sudan halts the genocide in Darfur for 12 months as determined by both the Department of State and the Congress of the United States.

(2) The United States revokes its current sanctions against Sudan.

(Added by Stats. 2006, Ch. 442.)

§ 7513.7. Iran Investments

(a) As used in this section, the following definitions shall apply:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System, as applicable.

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(2) "Business operations" means maintaining, selling, or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Iran, including the ownership or possession of real or personal property located in Iran.

(3) "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profitmaking purposes or to otherwise secure economic advantage. "Company" also means a company owned or controlled, either directly or indirectly, by the government of Iran, that is established or organized under the laws of or has its principal place of business in Iran.

(4) "Energy sector of Iran" means activities to develop petroleum or natural gas resources or nuclear power in Iran.

(5) "Invest" or "investment" means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of Iran, corporate bonds or other debt instruments issued by a company, or the commitment of funds or other assets to a company, including a loan or extension of credit to that company.

(6) "Iran" means the government of Iran and any agency or instrumentality of Iran.

(7) "Public employee retirement funds" means the Public Employees' Retirement Fund described in Section 20062 of this code, and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

(8) "Substantial action" means a boycott of the government of Iran, curtailing business in Iran until that time described in subdivision (m), or selling company assets, equipment, or real and personal property located in Iran.

(b) The board shall not invest public employee retirement funds in a company which has business operations in Iran as identified by the board through, as the board deems appropriate, publicly available information including, but not limited to, information provided by nonprofit and other organizations and government entities, that meets either of the following criteria:

(1) The company

(A) is invested in or engaged in business operations with entities in the defense or nuclear sectors of Iran or

(B) has an investment of twenty million dollars ($20,000,000) or more in the energy sector of Iran, including in a company that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran, and that company is subject to sanctions under Public Law 104-172, as renewed and amended in 2001 and 2006.

(2) The company has demonstrated complicity with an Iranian organization that has been labeled as a terrorist organization by the United States government.

(c) Annually, on or before June 30, the board shall review its investment portfolio and determine which companies are subject to divestment.

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(d) After the determination described in subdivision (c), the board shall determine, by the next applicable board meeting, if a company meets the criteria described in subdivision (b). If the board plans to invest or has investments in a company that meets the criteria described in subdivision (b), that planned or existing investment shall be subject to subdivisions (g) and (h).

(e) Investments of the board in a company that does not meet the criteria described in subdivision (b) are not subject to subdivision (h) if the company does not subsequently meet the criteria described in subdivision (b). The board shall identify the reasons why that company does not satisfy the criteria described in subdivision (b) in the report to the Legislature described in subdivision (i).

(f) (1) Notwithstanding subdivisions (d) and (e), if the board's investment in a company described in subdivision (b) is limited to investment via an externally and actively managed commingled fund, the board shall contact that fund manager in writing and request that the fund manager remove that company from the fund as described in subdivision (h). On or before June 30, if the fund or account manager creates a fund or account devoid of companies described in subdivision (b), the transfer of board investments from the prior fund or account to the fund or account devoid of companies with business operations in Iran shall be deemed to satisfy subdivision (h).

(2) If the board's investment in a company described in subdivision (b) is limited to an alternative fund or account, the alternative fund or account manager creates an actively managed commingled fund that excludes companies described in subdivision (b), and the new fund or account is deemed to be financially equivalent to the existing fund or account, the transfer of board investments from the existing fund or account to the new fund or account shall be deemed to satisfy subdivision (h). If the board determines that the new fund or account is not financially equivalent to the existing fund, the board shall include the reasons for that determination in the report described in subdivision (i).

(3) The board shall make a good faith effort to identify any private equity investments that involve companies described in subdivision (b), or are linked to the government of Iran. If the board determines that a private equity investment clearly involves a company described in subdivision (b), or is linked to the government of Iran, the board shall consider, at its discretion, if those private equity investments shall be subject to subdivision (h). If the board determines that a private equity investment clearly involves a company described in subdivision (b), or is linked to the government of Iran and the board does not take action as described in subdivision (h), the board shall include the reasons for its decision in the report described in subdivision (i).

(g) Except as described in subdivisions (e) and (f), the board, in the board's capacity of shareholder or investor, shall notify any company described in subdivision (d) that the company is subject to subdivision (h) and permit that company to respond to the board. The board shall request that the company take substantial action no later than 90 days from the date the board notified the

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company under this subdivision. If the board determines based on credible information available to the public that a company has taken substantial action or has made sufficient progress toward substantial action before the expiration of that 90-day period, that company shall not be subject to subdivision (h). The board shall, at intervals not to exceed 90 days, continue to monitor and review the progress of the company until that company has taken substantial action in Iran. Any determination made at each 90-day interval that a company has taken substantial action shall be supported by findings adopted by a rollcall vote of the board following a presentation and discussion of the findings in open session, during a properly noticed public hearing of the full board. All proposed findings of the board shall be made public 72 hours before they are considered by the board, and the board shall maintain a list of interested parties who shall be notified of proposed findings 72 hours before the board's consideration. The findings and any public comments regarding the adopted findings and determinations made pursuant to this subdivision shall be included in the report to the Legislature required by subdivision (i). A company that fails to complete substantial action within one year from the date of the initial notice by the board shall be subject to subdivision (h).

(h) If a company described in subdivision (d) fails to complete substantial action by the time described in subdivision (g), the board shall take the following actions:

(1) The board shall not make additional or new investments or renew existing investments in that company.

(2) The board shall liquidate the investments of the board in that company no later than 18 months after this subdivision applies to that company. The board shall liquidate those investments in a manner to address the need for companies to take substantial action in Iran and consistent with the board's fiduciary responsibilities as described in Section 17 of Article XVI of the California Constitution.

(i) On or before January 1, 2009, and every year thereafter, the board shall file a report with the Legislature. The report shall describe the following:

(1) A list of investments the board has in companies with business operations that satisfy the criteria in subdivision (b), including, but not limited to, the issuer, by name, of the stock, bonds, securities, and other evidence of indebtedness.

(2) A detailed summary of the business operations a company described in paragraph (1) has in Iran.

(3) Whether the board has reduced its investments in a company that satisfies the criteria in subdivision (b).

(4) If the board has not completely reduced its investments in a company that satisfies the criteria in subdivision (b), when the board anticipates that the board will reduce all investments in that company or the findings adopted in support of a determination made pursuant to subdivision (k) pertaining to why a sale or

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transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(5) Any information described in subdivisions (d) and (e).

(6) A detailed summary of investments that were transferred to funds or accounts devoid of companies with business operations in Iran as described in subdivision (f).

(7) An annual calculation of any costs or investment losses or other financial results incurred in compliance with the provisions of this section.

(j) If the board voluntarily sells or transfers all of its investments in a company with business operations in Iran, this section shall not apply except that the board shall file a report with the Legislature related to that company as described in subdivision (i).

(k) Nothing in this section shall require the board to take action as described in this section if the board determines, and adopts findings, in good faith and based on credible information available to the public, that the action described in this section would fail to satisfy the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution. Any adopted findings shall demonstrate how divestment disadvantages the fund and that any feasible investment alternatives would yield a lower rate of return with commensurate degrees of risk, or create a higher degree of risk with commensurate rates of return. Notwithstanding any other law, any determination that an action would fail to satisfy the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution shall require a recorded rollcall vote of the full board, following a presentation and discussion of findings in open session, during a properly noticed public hearing of the full board. All proposed findings of the board shall be made public 72 hours before they are considered by the board, and the board shall maintain a list of interested parties who shall be notified of proposed findings 72 hours before board consideration. The findings and any public comments regarding the adopted findings and determinations made pursuant to this subdivision shall be included in the report to the Legislature required by subdivision (i).

(l) This section shall cease to be operative if the President of the United States has made the certifications specified in paragraphs (1) and (2) of subdivision (a) of Section 8551 of Title 22 of the United States Code.

(m) This section shall be known and may be cited as the California Public Divest from Iran Act.

(n) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Added by Stats 2007, Ch. 671; amended by Stats. 2011, Ch. 441.)

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§ 7513.8. "Placement Agents" and "External Managers" Definitions

As used in this section and Sections 7513.85, 7513.86, 7513.87, 7513.9, and 7513.95:

(a) "Board" means the retirement board of a public pension or retirement system, as defined in subdivision (h) of Section 17 of Article XVI of the California Constitution.

(b) "External manager" means either of the following:

(1) A person who is seeking to be, or is, retained by a board or an investment vehicle to manage a portfolio of securities or other assets for compensation.

(2) A person who manages an investment fund and who offers or sells, or has offered or sold, an ownership interest in the investment fund to a board or an investment vehicle.

(c) (1) "Investment fund" means a private equity fund, public equity fund, venture capital fund, hedge fund, fixed income fund, real estate fund, infrastructure fund, or similar pooled investment entity that is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, owning, holding, or trading securities or other assets.

(2) Notwithstanding paragraph (1), an investment company that is registered with the Securities and Exchange Commission pursuant to the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) and that makes a public offering of its securities is not an investment fund.

(d) "Investment vehicle" means a corporation, partnership, limited partnership, limited liability company, association, or other entity, either domestic or foreign, managed by an external manager in which a board is the majority investor and that is organized in order to invest with, or retain the investment management services of, other external managers.

(e) "Person" means an individual, corporation, partnership, limited partnership, limited liability company, or association, either domestic or foreign.

(f) (1) "Placement agent" means any person directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager or an investment fund managed by an external manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to a board or an investment vehicle either of the following:

(A) In the case of an external manager within the meaning of paragraph (1) of subdivision (b), the investment management services of the external manager.

(B) In the case of an external manager within the meaning of paragraph (2) of subdivision (b), an ownership interest in an investment fund managed by the external manager.

(2) Notwithstanding paragraph (1), an individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager and who spends one-third or more of his or her time, during a calendar year, managing

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the securities or assets owned, controlled, invested, or held by the external manager is not a placement agent.

(Added by Stats. 2009, Ch. 301; amended by Stats. 2010, Ch. 668; and by Stats. 2011, Ch. 704, effective 10/9/2011.)

§ 7513.85. Disclosure of Payments to Placement Agents

(a) The board shall develop and implement, on or before June 30, 2010, a policy requiring the disclosure of payments to placement agents in connection with system investments in or through external managers. The policy shall include, but not be limited to, the following requirements:

(1) Disclosure of the existence of relationships between external managers and placement agents.

(2) A resume for each officer, partner, or principal of the placement agent detailing the person's education, professional designations, regulatory licenses, and investment and work experience.

(3) A description of any and all compensation of any kind provided, or agreed to be provided, to a placement agent.

(4) A description of the services to be performed by the placement agent.

(5) A statement whether the placement agent, or any of its affiliates, are registered with the Securities and Exchange Commission or the Financial Industry Regulatory Association, or any similar regulatory agent in a country other than the United States, and the details of that registration or explanation as to why no registration is required.

(6) A statement whether the placement agent, or any of its affiliates, is registered as a lobbyist with any state or national government.

(b) Any external manager or placement agent that violates the policy shall not solicit new investments from the system for five years after the violation was committed. However, this prohibition may be reduced by a majority vote of the board at a public session upon a showing of good cause.

(c) The system shall not enter into any agreement with an external manager that does not agree in writing to comply with the policy.

(d) Nothing in this section shall require the board to take action as described in this section unless the board determines, in good faith, that the action described in this section is consistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(Added by Stats. 2009, Ch. 301.)

§ 7513.86. Placement Agent Registration and Reporting State Retirement System

Except as provided in subdivisions (b) and (c) of Section 82047.3, a person shall not act as a placement agent in connection with any potential system investment made by a state public retirement system unless that person is

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registered as a lobbyist in accordance with Chapter 6 (commencing with Section 86100) of Title 9 and is in full compliance with the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) as that act applies to lobbyists.

(Added by Stats. 2010, Ch. 668.)

§ 7513.87. Placement Agent Registration and Reporting Local Retirement System

(a) A person acting as a placement agent in connection with any potential system investment made by a local public retirement system shall file any applicable reports with a local government agency that requires lobbyists to register and file reports and shall comply with any applicable requirements imposed by a local government agency pursuant to Section 81013.

(b) This section does not apply to either of the following:

(1) An individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager.

(2) An employee, officer, or director of an external manager, or of an affiliate of an external manager, if all of the following apply:

(A) The external manager is registered as an investment adviser or a broker-dealer with the Securities and Exchange Commission or, if exempt from or not subject to registration with the Securities and Exchange Commission, any appropriate state securities regulator.

(B) The external manager is participating in a competitive bidding process, such as a request for proposals, or has been selected through that process and is providing services pursuant to a contract executed as a result of that competitive bidding process.

(C) The external manager, if selected through a competitive bidding process described in subparagraph (B), has agreed to a fiduciary standard of care, as defined by the standards of conduct applicable to the retirement board of a public pension or retirement system and set forth in Section 17 of Article XVI of the California Constitution, when managing a portfolio of assets of a public retirement system in California.

(Added by Stats. 2010, Ch. 668; amended by Stats. 2011, Ch. 704, effective 10/9/2011.)

§ 7513.9. Placement Agents: Disclosure of Campaign Contributions

(a) Any placement agent, prior to acting as a placement agent in connection with any potential system investment, shall disclose to the board all campaign contributions made by the placement agent to any elected member of the board during the prior 24-month period. Additionally, any subsequent campaign contribution made by the placement agent to an elected member of the board

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during the time the placement agent is receiving compensation in connection with a system investment shall also be disclosed.

(b) Any placement agent, prior to acting as a placement agent in connection with any potential system investment, shall disclose to the board all gifts, as defined in Section 82028, given by the placement agent to any member of the board during the prior 24-month period. Additionally, any subsequent gift given by the placement agent to any member of the board during the time the placement agent is receiving compensation in connection with a system investment shall also be disclosed.

(Added by Stats. 2009, Ch. 301.)

§ 7513.95. Sale of Assets or Investment Products

A member or employee of the board shall not, directly or indirectly, by himself or herself, or as an agent, partner, or employee of a person or entity other than the board, sell or provide any investment product that would be considered an asset of the fund to any public retirement system in California.

(Added by Stats. 2009, Ch. 301.)

§ 7513.97. Definitions

As used in Section 11 of Article VII of the Constitution, the following terms have the following meanings:

(a) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted and the actuarial interest rate fixed by the Board of Administration of the Public Employees' Retirement System.

(b) "Beneficiary" means any person or corporation designated by a member, a retired member, or statute, or the estate of a member or retired member designated by the member or retired member, to receive a benefit under the retirement system, on account of the death of the member or retired member.

(c) "Salary" means the actual wages paid but shall not include any other benefits, such as, but not limited to, health and dental benefits, retirement benefits, vacation pay, and per diem.

(d) "Unmodified pension or retirement allowance" means the maximum pension or retirement allowance receiveable, prior to any selection of an optional settlement and includes any cost-of-living adjustment and any other increase granted subsequent to retirement.

(Added by Stats. 1984, Ch. 220, operative upon adoption of SCA No. 36 of the 1983-84 Regular Session. Renumbered by Stats. 2011, Ch. 296.)

Note: Amended by Stats. 2011, Ch. 296

Derivation: Former § 7514, added by Stats. 1984, Ch. 220, operative upon adoption of SCA No. 36 of the 1983-4 Regular Session.

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§ 7514. Definitions [Renumbered]

Note: Former 7514 amended and renumbered 7513.97 by Stats. 2011, Ch. 296; Added by Stats. 1984, Ch. 220, operative upon adoption of SCA No. 36 of the 1983-4 Regular Session.

§ 7514. Investment of Assets; Bonds or Other Indebtedness Unconditionally Guaranteed by Foreign Government

(a) Notwithstanding any other provision of law except Chapter 7 (commencing with Section 16649.80) of Part 2 of Division 4 of Title 2, any state or local public retirement system may invest, subject to and consistent with the standard for prudent investment set forth in Section 17 of Article XVI of the California Constitution, its assets in the bonds or other evidences of indebtedness unconditionally guaranteed by any foreign government that has met the payments of similar bonds or other evidences of indebtedness when due.

(b) A portion of the assets invested pursuant to this section may be used to purchase rated or unrated bonds, notes, or other instruments unconditionally guaranteed by Canada, Israel, Mexico, or South Africa.

(Added by Stats. 1993, Ch. 440; amended by Stats. 1994, Ch. 30, effective 3/30/94, Ch. 31, effective 3/30/94, and Ch. 46.)

§ 7514.1. Investment Guidelines

Notwithstanding any other provision of law except Chapter 7 (commencing with Section 16649.80) of Part 2 of Division 4 of Title 2, any state or local public retirement system may invest, subject to and consistent with the standard for prudent investment set forth in Section 17 of Article XVI of the California Constitution, and the state and any political subdivision of the state may, invest its assets in rated bonds, notes, or other obligations issued, assumed, or unconditionally guaranteed by the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the Inter-American Development Bank, the International Finance Corporation, the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, and any other international financial institution that has met the payments of similar bonds, notes, or other obligations when due and in which the United States is a member.

(Added by Stats. 1994, Ch. 1084; amended by Stats. 1995, Ch. 91.)

§ 7514.2 California Infrastructure Investments

(a) As used in this section, the following definitions shall apply:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System, the Teachers' Retirement Board, or the board of retirement or board of investments of a retirement system established pursuant to the County

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Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3).

(2) "Infrastructure" includes, but is not limited to, telecommunications, power, transportation, ports, petrochemical, and utilities.

(b) A board may, subject to and consistent with its fiduciary duties and the standard for prudent investment set forth in Section 20190 of this code, Section 22203 of the Education Code, and Section 17 of Article XVI of the California Constitution, prioritize investment in an in-state infrastructure project over a comparable out-of-state project.

(c) The Legislature encourages each board to prioritize investment in in-state infrastructure projects over alternative out-of-state infrastructure projects if the investments in the in-state projects are consistent with the board's fiduciary duties to minimize the risk of loss and to maximize the rate of return.

(d) Nothing in this section shall require a board to take action that is inconsistent with its plenary authority and fiduciary responsibilities, as described in Section 17 of Article XVI of the California Constitution.

(Added by Stats. 2012, Ch. 760; amended by Stats. 2013, Ch. 766.)

§ 7514.3. Credit Enhancement Programs

Notwithstanding any other provision of law, state pension systems may, subject to and consistent with their fiduciary duties and the standard for prudent investment set forth in Section 20190 of this code and Section 17 of Article XVI of the California Constitution, establish credit enhancement programs to assist entities of state and local government and other issuers of municipal and public finance debt to secure more favorable financing terms through a variety of types of credit enhancement including, but not limited to, enhancement of the credit of bonds, notes, and other indebtedness. Any credit enhancement program shall comply with the requirements of Section 503 of the Internal Revenue Code.

(Added by Stats. 2004, Ch. 266, effective 8/23/04.)

§ 7514.5. Reciprocal Benefits for Elective Officers

Notwithstanding any other provision of law, whenever the rights of a member of the Public Employees' Retirement System, the State Teachers' Retirement System, or a retirement system established under the County Employees Retirement Law of 1937, because of membership in another retirement system, are conditional upon employment within a specified period of time after termination of service in another retirement system, that specified period shall be the period of service in full-time elective office on and after November 6, 1990, if the member was a full-time elective officer on or after that date and becomes a member of any of those retirement systems within 120 days after termination of the full-time elective office.

(Added by Stats. 1998, Ch. 1074, effective 9/30/98.)

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ARTICLE 2. JOINT RETIREMENT SYSTEM INVESTMENT INFORMATION SHARING

§ 7515. Intent

It is the intent of this chapter to authorize and encourage the Public Employees' Retirement System and the State Teachers' Retirement System to regularly cooperate and share information that may assist both systems in developing and implementing appropriate investment strategies, with the advice of investment experts selected by the systems who are willing to share their knowledge and expertise.

(Added by Stats. 2000, Ch. 320.)

§ 7516. Confidentiality of Shared Information or Documents

Notwithstanding any other provision of law, confidential information or documents relating to investments in the possession of the Public Employees' Retirement System or the State Teachers' Retirement System shall not lose their confidential status due to the fact that the information or documents are shared with the other system or with investment advisors selected by the systems to advise on asset allocation, active verses passive management, or other investment issues of mutual interest and concern. Nothing in this chapter shall be construed to authorize the release or sharing of documents or information in violation of federal law or the terms of a contract.

(Added by Stats. 2000, Ch. 320.)

ARTICLE 3. DEPOSITS OF PUBLIC PENSION AND RETIREMENT FUNDS

§ 7520. Contracts with Savings and Loan Associations: Real Estate Loans

Notwithstanding any other provision of law, any public pension fund or retirement system of this state or local agency of this state may contract with a savings and loan association doing business in this state under terms by which the association shall receive deposits of money from the fund or system for a term of 12 months or longer upon the association's agreement to offer loans for the construction of new residential structures and related improvements, including apartment buildings or other multiple-unit structures, in an amount equal to the amount of the deposit, at a rate of interest equal to the rate of interest on the deposit plus 200 basis points. The savings and loan association may require additionally an origination fee not exceeding the amount required by the savings and loan association for comparable loans not subject to this section, but in no case exceeding 5 percent of the loan amount. This fee shall not be deemed to include any expenses of the association directly related to approving, processing,

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or recording loans made pursuant to this section. Reasonable charges to cover such expenses may be imposed in connection with such loans.

Nothing in this section shall authorize a pension fund or retirement system to make deposits at less than the otherwise applicable rate of interest nor prohibit the fund of system from depositing funds with other financial institutions or under other conditions.

(Added by Stats. 1982, Ch. 1144.)

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

§ 7522. Title

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

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

§ 7522.02. General Provisions

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

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

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

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

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

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

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

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

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

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

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

(D) Section 22115.2 of the Education Code.

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

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

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

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

(f) (1) If, on or after January 1, 2013, the Cities of Brea and Fullerton form a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5), that joint powers authority may provide employees the defined benefit plan or formula that those employees received from their respective employers on December 31, 2012, to any employee of the City of Brea, the City of Fullerton, or a city described in paragraph (2) who is not a new member and subsequently is employed by the joint powers authority without a break in service of more than 180 days.

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

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

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

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

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

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

§ 7522.04. Definitions

For the purposes of this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) "Public employer" means:

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

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

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

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

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

§ 7522.10. Pensionable Compensation—Limitations

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

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

(c) The pensionable compensation used to calculate the defined benefit paid to a new member who retires from the system shall not exceed the following

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applicable percentage of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code on January 1, 2013:

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

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

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

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

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

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

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

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

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

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

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

Except as provided in subdivisions (d) and (e) of Section 7522.02, each public employer and each public retirement system that offers a defined benefit plan shall offer only the defined benefit formulas established pursuant to Sections 7522.20 and 7522.25 to new members.

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

§ 7522.18. Prohibition on Supplemental Defined Benefit Plans

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

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

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

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

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

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

Age of Retirement	Fraction
52	1.000
52 1/4	1.025
52 1/2	1.050
52 3/4	1.075
53	1.100
53 1/4	1.125
53 1/2	1.150

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Age of Retirement	Fraction
53 3/4	1.175
54	1.200
54 1/4	1.225
54 1/2	1.250
54 3/4	1.275
55	1.300
55 1/4	1.325
55 1/2	1.350
55 3/4	1.375
56	1.400
56 1/4	1.425
56 1/2	1.450
56 3/4	1.475
57	1.500
57 1/4	1.525
57 1/2	1.550
57 3/4	1.575
58	1.600
58 1/4	1.625
58 1/2	1.650
58 3/4	1.675
59	1.700
59 1/4	1.725
59 1/2	1.750
59 3/4	1.775
60	1.800
60 1/4	1.825
60 1/2	1.850
60 3/4	1.875
61	1.900
61 1/4	1.925
61 1/2	1.950
61 3/4	1.975
62	2.000
62 1/4	2.025
62 1/2	2.050
62 3/4	2.075
63	2.100
63 1/4	2.125
63 1/2	2.150
63 3/4	2.175
64	2.200
64 1/4	2.225
64 1/2	2.250
64 3/4	2.275

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Age of Retirement	Fraction
65	2.300
65 1/4	2.325
65 1/2	2.350
65 3/4	2.375
66	2.400
66 1/4	2.425
66 1/2	2.450
66 3/4	2.475
67	2.500

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

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

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

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

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

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

Age at Retirement	Fraction
50	1.426
50 1/4	1.447
50 1/2	1.467
50 3/4	1.488
51	1.508
51 1/4	1.529
51 1/2	1.549
51 3/4	1.570
52	1.590
52 1/4	1.611
52 1/2	1.631
52 3/4	1.652

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Age at Retirement	Fraction
53	1.672
53 1/4	1.693
53 1/2	1.713
53 3/4	1.734
54	1.754
54 1/4	1.775
54 1/2	1.795
54 3/4	1.816
55	1.836
55 1/4	1.857
55 1/2	1.877
55 3/4	1.898
56	1.918
56 1/4	1.939
56 1/2	1.959
56 3/4	1.980
57 and over	2.000

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

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

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Age at Retirement	Fraction
54 1/2	2.321
54 3/4	2.339
55	2.357
55 1/4	2.375
55 1/2	2.393
55 3/4	2.411
56	2.429
56 1/4	2.446
56 1/2	2.464
56 3/4	2.482
57 and over	2.500

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

Age at Retirement	Fraction
50	2.000
50 1/4	2.025
50 1/2	2.050
50 3/4	2.075
51	2.100
51 1/4	2.125
51 1/2	2.150
51 3/4	2.175
52	2.200
52 1/4	2.225
52 1/2	2.250
52 3/4	2.275
53	2.300
53 1/4	2.325
53 1/2	2.350
53 3/4	2.375
54	2.400
54 1/4	2.425
54 1/2	2.450
54 3/4	2.475
55	2.500
55 1/4	2.525
55 1/2	2.550
55 3/4	2.575

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Age at Retirement	Fraction
56	2.600
56 1/4	2.625
56 1/2	2.650
56 3/4	2.675
57 and over	2.700

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

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

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

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

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

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

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

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

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

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

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(b) The "normal cost rate" shall mean the annual actuarially determined normal cost for the plan of retirement benefits provided to the new member and shall be established based on the actuarial assumptions used to determine the liabilities and costs as part of the annual actuarial valuation. The plan of retirement benefits shall include any elements that would impact the actuarial determination of the normal cost, including, but not limited to, the retirement formula, eligibility and vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments as determined by the public retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 7522.34. Definition—Pensionable Compensation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 7522.40. Health Benefit Vesting Schedule Equity

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

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

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

§ 7522.42. Compensation Subject to Annual Compensation Limit

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

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

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

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

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

§ 7522.43. Prohibition on Replacement Benefits Plans

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

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

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

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

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

§ 7522.44. Prohibition on Retroactive Benefits Increases

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

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

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

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

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

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

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

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

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

§ 7522.46. Prohibition on Purchase of Nonqualified Service Credit

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

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

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

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

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

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the computation of any pension or benefit, the member may have more than one final compensation.

(b) Any final compensation calculation shall otherwise be subject to this article except that if any individual period of elective service is less than 36 months or three years, then the entire period of that individual's elected service shall be used to determine the final compensation for that period of service.

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

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

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

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

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

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

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

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

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

§ 7522.56. Conditions and Limitations on Service After Retirement

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

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

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

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(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

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

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

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

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

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

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

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(C) For employees of the California State University, the Trustees of the California State University certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

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

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

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

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

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

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

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

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

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

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(c) A person who is retired from the Public Employees' Retirement System shall not serve on a full-time basis on a state board or commission without reinstatement unless that person serves as a nonsalaried member of the board or commission and receives only per diem authorized to all members of the board or commission. A person who serves as a nonsalaried member of a board or commission shall not earn any service credit or benefits in the Public Employees' Retirement System or make contributions with respect to the service performed.

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

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

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

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

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

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

§ 7522.66. Repealed

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

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

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

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

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duties as an elected public officer, he or she shall forfeit all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction.

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

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

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

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

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

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

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

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

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

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

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

(b) (1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in

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subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

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

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

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

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

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

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

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

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

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

(A) The date of conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

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

(A) The date of conviction.

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

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

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

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

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

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

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

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

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

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

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

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Extract of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations

CHAPTER 2. Board Of Administration Of the Public Employees' Retirement System

Note: This extract from the California Code of Regulations includes references to code sections in Part 3 of Division 5 of Title 2 of the California Government Code (Public Employees' Retirement Law) that were renumbered by recodification of statutes in 1995. Please use the cross-reference tables beginning on page xi to locate the new section number.

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SUBCHAPTER 2. Social Security (OASDHI) Regulations
SUBCHAPTER 3. State Employees' Medical And Hospital Care Act Regulations

SUBCHAPTER 1. Employees' Retirement System Regulations

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ARTICLE 1. GENERAL

§ 550. Definitions.

For the purpose of the regulations contained in this subchapter, the term "board" means Board of Administration, Public Employees' Retirement System; "retirement allowance" means a service retirement allowance or disability retirement allowance payable under the Public Employees' Retirement Law to a retired person; "group insurance plan" means a policy of group life, accident, health, or disability insurance, or a contract of a nonprofit membership corporation for the purpose of defraying the cost of medical service (including service rendered by doctors of medicine, doctors of osteopathy, or doctors of chiropractic) or hospital care, or both.

NOTE: Authority cited: for Subchapter 1 (§§ 550 and 551): Sections 20120 and 20630, Government Code. Additional authority cited: Sections 20135, 20303, 22500, Government Code. Reference: Section 20133, Government Code.

HISTORY:
1. New Subchapter 1 (§§ 550 and 551) filed 12-15-59; effective 30th day thereafter (Register 59, No. 21).
2. Repealer of Subchapters 1 and 1.1, and new Subchapter 1 (Sections 550, 550.1, 560, 575, 580, 581) filed 6-29-60; effective thirtieth day thereafter (Register 60, No. 15). (For history of Subchapter 1.1, see Registers 56, No. 7, and 57, No. 18).
3. Amendment filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).

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§ 550.1. Repealed.

HISTORY:
1. Repealer filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).

§ 551. Location of Offices.

The office of the board is located at 400 P Street, Sacramento, California. Correspondence should be addressed to the Executive Officer, Public Employees' Retirement System, P. O. Box 942702, Sacramento, California 94229-2702.

NOTE: Authority cited: Section 20120, Government Code. Reference: Section 20133, Government Code.

HISTORY:
1. New section filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).
2. Change without regulatory effect amending section filed 6-12-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 24)

§ 552. Board Meeting Notice

(a) The Board shall mail a Board Meeting Notice showing matters and other items of business scheduled to be conducted at an upcoming Board meeting to those interested parties who have requested such notice in writing. The Board Meeting Notice may be mailed via electronic mail or the U.S. Postal Service, and shall be mailed at least 10 days prior to the scheduled Board meeting to which it relates. The Board Meeting Notice shall also be available on the Internet at www.calpers.ca.gov.

(b) The Board Meeting Notice shall include:

(1) The name, address, and telephone number of any person who can provide further information prior to the meeting;

(2) The address of the Internet site where notices are made available; and

(3) A specific agenda for the meeting, containing a brief description of the matters and other items of business to be conducted or discussed in either open or closed session. A description of a matter or other item of business to be conducted or discussed in closed session shall include a citation to the specific statutory authority under which a closed session is being held.

(c) A Board Meeting Notice may contain additional information not described in subdivision (b).

NOTE: Authority cited: Sections 20120, 20121 and 20151, Government Code. Reference: Section 11125, Government Code.

HISTORY:
1. New section filed 3-9-2011; operative 4-8-2011 (Register 2011, No. 10).

ARTICLE 2. ADMINISTRATION

§ 554. Election of Board Members

Board member elections shall be conducted by the Election Coordinator designated by the Executive Officer in accordance with procedures adopted by the Board.

All CalPERS staff directly involved in conducting Board elections shall be required to sign a statement that they have fully complied with the CalPERS Board election procedures and have faithfully performed their assigned duties in the election. These statements shall be on file with the CalPERS Executive Office and shall be completed each time an election is held. No CalPERS staff directly involved in conducting a CalPERS election shall use his/her official position to favor one candidate over another. Nothing in this section shall prohibit CalPERS staff who are eligible to vote in an election from exercising the same personal rights as other eligible voters.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:

1. New section; filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27). For history of Article 2, see Register 64, No. 17.
2. Amendment filed 7-9-84; effective thirtieth day thereafter (Register 84, No. 28).
3. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
4. Amendment of second paragraph filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
5. Change without regulatory effect correcting 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
6. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al., No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
7. Amendment filed 8-2-2001; operative 9-1-2001 (Register 2001, No. 31).

§ 554.1. Agency Responsibilities in Active Member Elections.

Each public agency and each State department shall appoint an Agency Election Officer at the request of the Board in elections for Board members. Agencies shall immediately notify the Board of any change in the appointment. Agency Election Officers shall:

(a) Certify that the designated Election Officer understands and will comply with the election instructions and that actions taken will be compatible with ethical election practices.

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(b) Ensure the timely distribution to eligible members or posting of election materials sent by the Election Coordinator's, according to the Election Coordinator's instructions.

(c) Ensure impartiality of the election process within the agency.

(d) Ensure no campaign material is distributed with the election material sent by the Election Coordinator.

(e) Promptly provide any information necessary to the election process at the request of the Election Coordinator.

(f) Certify, under penalty of perjury, that election materials were forwarded to PERS members in that agency, as instructed by the Election Coordinator.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:
1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment filed 7-9-84; effective thirtieth day thereafter (Register 84, No. 28).
3. New subsection (a), repealer of former subsection (b) and amendment of newly designated subsection (b), and amendment of subsections (d) and (f) filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
4. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).

§ 554.2. Notice of Election.

(a) Before each election for a Board member identified in Government Code 20090, subdivision (g) or a special election to fill a vacancy pursuant to Government Code section 20095, the Board shall adopt a Notice of Election. The complete text of the Notice of Election shall be adopted as an agenda item at a regularly noticed public meeting of the Board.

(b) The Notice of Election shall contain:

i. A statement of whether, at the time of the adoption of the Notice of Election, the incumbent intends to be a candidate for reelection, pursuant to Government Code section 20096.3;

ii. The election schedule, including without limitation, the date for submission of Nomination Petition forms, Nomination Acceptance/Ballot Designation forms, and the dates of the election pursuant to this section and section 554.3 of this article;

iii. Eligibility criteria for candidates and voters pursuant to Government Code section 20090, subdivision (g);

iv. Candidate nomination and election procedures as provided in section 554.3 of this article;

v. Information required by the Nomination Petition as provided in section 554.3, subdivisions (b) and (c), of this article;

vi. The minimum number of valid original signatures required for nomination as a candidate pursuant to section 554.3, subdivision (e) of this article; and

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vii. Such other information as determined by the Board at the noticed public meeting.

(c) The election schedule shall provide the Board adequate time and flexibility to accommodate the nomination and candidate statement arbitration processes, various administrative procedures and voting periods, including the opportunity for a run-off election, if necessary, and to seat the newly elected Board members by statutory deadlines. In no event shall ballots be distributed to voters earlier than 60 days after the adoption of the original Notice of Election.

(d) Any amendment to the Notice of Election, including amendments to the election schedule, shall be set forth in an Amended Notice of Election, adopted at a noticed public meeting of the Board.

(e) The Election Coordinator shall publish the Notice of Election before each election, using methods designed to provide adequate notice to potential candidates and voters, including but not limited to:

a. Posting the Notice of Election on the CalPERS website.

b. Mailing the Notice of Election directly to eligible retired members.

c. Providing employers with sufficient copies of the Notice of Election to allow widespread notice to employees.

(f) Agency Election Officers shall provide notification to eligible active members by direct distribution of the Notice of Election to members or by posting the Notice of Election in employee work areas.

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 20090, 20095 and 20096, Government Code.

HISTORY:
1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
3. Amendment of section and Note filed 6-26-2008; operative 7-26-2008 (Register 2008, No. 26).

§ 554.3. Nomination of Candidates

(a) A person qualifies for nomination if he or she meets the eligibility criteria set forth in Government Code section 20090, subdivision (g), for the Board member position that is the subject of the election. To qualify for candidacy, a nominee must complete the procedures for nomination set forth in the Notice of Election. An individual nominee may not be a candidate for more than one Board member position during any particular election.

(b) Nomination shall be by petition, on the Nomination Petition form(s) provided by the System, addressed to the Board and signed by the nominee. The Nomination Petition form shall include all information required by this section as provided in the Notice of Election or any Amended Notice of Election. The petition shall identify clearly the specific Board member position for which the nominee seeks election. The petition shall also set forth information required to validate the nominee's eligibility, which shall include, the nominee's full name, last four (4) digits of the nominee's Social Security number, and employer or

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employer at retirement. The nominee shall also provide contact information, such as address, telephone number, fax number, and email address.

(c) A member or retired member shall be eligible to sign a Nomination Petition if he or she meets the eligibility criteria set forth in Government Code section 20090, subdivision (g), for the Board member position that is the subject of the election. Members or retired members signing a Nomination Petition shall provide identifying information for the purpose of validating membership in the System, which shall include, the member's or retired member's full name, last four (4) digits of his or her Social Security number, and employer or employer at retirement.

(d) The Nomination Petition Form shall be provided by the System as follows, pages 1 and 2 are reproduced below; subsequent identically formatted pages will be provided by the System for signature lines numbered 8 - 300:

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CalPERS

Nomination Petition (election name) Election

Important: The Nomination Petition, endorsed with **at least 250 original signatures of eligible (active/retired) members**, must be **received** by the California Public Employees' Retirement System (CalPERS) at the address below **no later than (date), 5:00 p.m. Firm**. The Nomination Petition provides fifty (50) additional name/signature lines. Only Nomination Petitions supplied by CalPERS will be acceptable.

California Public Employees' Retirement System
Attention: CalPERS Election Coordinator
Lincoln Plaza – 400 Q Street, Room (room number)
P.O. Box 942702
Sacramento, CA 94229-2702
Telephone: (916) 795-3952, local, or (800) 794-2297, toll free

Nomination

We, the undersigned, **(active and/or retired)** members of the California Public Employees' Retirement System, place in nomination _____ **(nominee full name)** _____ as a member to the Board of Administration, California Public Employees' Retirement System. The nominee is **(employed by/retired from)** (agency) _____.

_____
Nominee's Street Address

_____
City State Zip Code

(_____)_____
Nominee's Daytime Telephone Number

XXX – XX – ____ ____ ____ ____
Last Four Digits of the Social Security Number*

_____
Signature of Nominee Consenting to Nomination

_____
Nominee's E-Mail Address

(_____) _____
Nominee's Fax Number

Information Needed for Verification of System Membership

	Name* (Type/Print) & Signature	Last Four Digits of the Social Security Number*	(employed by / retired from) (Agency Name)
1.	_____ (Type/Print Name Clearly) _____ (Signature)	**XXX – XX –** ____ ____ ____ ____	_____ (Agency Name)

Regulations

* **NOTE:** The last name and the last four digits of the social security number information is being sought for the sole purpose of verifying CalPERS membership against the CalPERS database. Be advised that in some cases, the information provided may not be sufficient to verify CalPERS membership or may delay verification of eligible signers. In the event CalPERS membership cannot be verified, the signature will be deemed invalid and not counted.

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Nomination Petition (election name) Election, for:_____

	Name* (Type/Print) & Signature	Last Four Digits of the Social Security Number*	(employed by / retired from) (Agency Name)
2.	_____ (Type/Print Name Clearly) _____ (Signature)	XXX – XX – ____ ____ ____ ____	_____ (Agency Name)
3.	_____ (Type/Print Name Clearly) _____ (Signature)	XXX – XX – ____ ____ ____ ____	_____ (Agency Name)
4.	_____ (Type/Print Name Clearly) _____ (Signature)	XXX – XX – ____ ____ ____ ____	_____ (Agency Name)
5.	_____ (Type/Print Name Clearly) _____ (Signature)	XXX – XX – ____ ____ ____ ____	_____ (Agency Name)
6.	_____ (Type/Print Name Clearly) _____ (Signature)	XXX – XX – ____ ____ ____ ____	_____ (Agency Name)
7.	_____ (Type/Print Name Clearly) _____ (Signature)	XXX – XX – ____ ____ ____ ____	_____ (Agency Name)

* **NOTE:** The last name and the last four digits of the social security number information is being sought for the sole purpose of verifying CalPERS membership against the CalPERS database. Be advised that in some cases, the information provided may not be sufficient to verify CalPERS membership or may delay verification of eligible signers. In the event CalPERS membership cannot be verified, the signature will be deemed invalid and not counted.

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(e) The minimum number of petition signatures required for candidacy shall be determined by the Board at a noticed public meeting and specified in the Notice of Election. In setting the minimum number of petition signatures, the Board will consider the goals of ensuring candidates have a minimum level of support and providing members and retirees access to candidacy. In no event shall less than 250 valid original signatures be required. Only those petitions received in the Sacramento office of the System by the date and time specified in the Notice of Election shall be accepted.

(f) Each nominee shall certify, on the Nomination Acceptance/Ballot Designation form provided by the System, that he or she accepts the nomination, consents to serve if elected and agrees to abide by a drawing of lots by the Secretary of State in case of a tied vote. If a nominee chooses to submit a Ballot Designation, he or she shall include the proposed Ballot Designation on the Nomination Acceptance/Ballot Designation form. The nominee shall return the Nomination Acceptance/Ballot Designation form by the date and time specified in the Notice of Election to have his or her name placed on the ballot.

(g) The Nomination Acceptance/Ballot Designation Form shall be provided by the System as follows:

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CalPERS

NOMINATION ACCEPTANCE/BALLOT DESIGNATION FORM

IMPORTANT: COMPLETE AND FILE THIS FORM NO LATER THAN {date}, 5:00 P.M. FIRM, (CERTIFIED MAIL IS RECOMMENDED) TO:

California Public Employees' Retirement System
ATTENTION: CalPERS Election Coordinator
Lincoln Plaza West - 400 Q Street, Room {room number}
P.O. Box 942702
Sacramento, CA 94229-2702

NOMINATION ACCEPTANCE/NON-ACCEPTANCE

Please select either Item #1 or #2 below by marking the appropriate box.

1. ☐ Upon CalPERS determination that I am a qualified candidate, I accept the nomination for election as a member of the Board of Administration to fill the position whose term will begin January 16, {year}, and expire on January 15, {year}. I consent to serve if elected and agree to abide by the result of a drawing of lots by the Secretary of State in case of a tied vote. I submit the following information:

   Name and proposed Ballot Designation as I wish it shown on the ballot:

   Name: _____
   (Please type or print)

   Proposed Ballot Designation: _____
   (See California Code of Regulations, section 554.10, attached)

   Employer or Employer At Retirement: _____

   Job Classification or Job Classification at Retirement : _____

   Total years of CalPERS-covered service in California: _____

2. ☐ I do not accept the nomination for the terms as set forth above.

I understand that if I decide to withdraw my candidacy after submitting this certified form, if I checked box #1 above, I must notify the CalPERS Board Election Coordinator by phone at (916) 795-3952 and follow-up in writing at the address shown above within ten (10) working days following the nomination acceptance deadline date in order to have my name removed from the ballot and candidate statement information.

➔ Turn this form over. Read and complete the **CANDIDATE STATEMENT/ADDENDUM** and **CERTIFICATION** section.

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CANDIDATE STATEMENT/ADDENDUM

I understand that the California Public Employees' Retirement System will distribute with the ballot for the election (and runoff election if one is held) a candidate statement and candidate statement addendum for candidates who prepare them. I understand that the statement(s) must be truthful, and shall contain no obscene, vulgar, profane, libelous, or defamatory matter. The statement(s) shall not include any remarks or questions that are inherently misleading, including rhetorical remarks and questions that are inherently misleading.

I understand that once filed, the statement(s) may not be changed or withdrawn except as provided in CalPERS regulations at Title 2 California Code of Regulations Section 554.4(d), (e) Candidate Statements. I further understand that if candidate statement arbitration is conducted, and if I participate in the candidate statement arbitration, then, as stated in regulation Section 554.4(d), (e)(6):

- I will bear my own expenses in connection with the preparation and presentation of my case at the arbitration proceedings.
- The fees and expenses of the arbitrator and all other expenses of the arbitration shall be borne equally by each candidate participating in the arbitration.

CERTIFICATION

My signature below certifies my understanding of the information on this form regarding nomination acceptance/non-acceptance, withdrawing candidacy and the candidate statement. My signature below also certifies that I have completed the information on this form.

SIGNATURE: _____

ADDRESS: _____

_____

TELEPHONE NUMBER: (_____)_____

DATE: _____

CalPERS-BRD-195 (BACK) (1/08)

(h) The amendments to this section adopted on March 21, 2001 shall become operative on January 16, 2002. The amendments to Section 554.3 filed July 2, 1982, shall remain in effect until that time.

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NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:
1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
3. Amendment of first paragraph filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
4. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in *California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al.*, No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
5. Amendment of first paragraph adopted by CalPERS Board 3-21-2001; submitted to OAL and filed 8-2-2001; operative 9-1-2001 (Register 2001, No. 31).
6. Amendment filed 6-26-2008; operative 7-26-2008 (Register 2008, No. 26).
7. Change without regulatory effect amending subsection (d) and repealing and adopting new Form CalPERS-BRD-74B (10/11) filed 4-23-2012 pursuant to section 100, title 1, California Code of Regulations (Register 2012, No. 17).

§ 554.4. Candidate Statements

(a) Each candidate for an elective Board member position may provide a candidate statement including the candidate's name, the word "Incumbent" when the candidate is the incumbent in the position for which the election is being held, job classification, employer (or employer at retirement), years of CalPERS-covered service, and a general statement of no more than 300 words. The statement must be truthful, and shall contain no obscene, vulgar, profane, libelous or defamatory matter. The statement shall not include any remarks or questions that are inherently misleading, including rhetorical remarks and questions that are inherently misleading.

(b) The statement shall be filed with the Election Coordinator at the time the candidate accepts nomination. Once filed, statements may not be changed or withdrawn except as provided herein.

(c) Within 7 calendar days following the end of the nomination period, the Election Coordinator shall distribute all candidate statements to each candidate in the respective contest. Each candidate shall have 10 calendar days (or such longer period as the Election Coordinator may provide to all candidates) after the distribution of the candidate statements by the Election Coordinator to submit to the Election Coordinator an addendum to the candidate's statement of no more than 300 words. No addenda may change the initial candidate statement, but addenda, if any, shall be in addition to the initial candidate statement. The Election Coordinator shall, within 7 calendar days after the date in which all addenda are due, provide all candidates with all candidate statements including addenda if any.

(d) No statement may be changed or withdrawn, except that:

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(1) a candidate who withdraws from the election may withdraw his/her statement at any time prior to printing, or,

(2) a candidate statement may be modified in accordance with a determination of an arbitration conducted in accordance with subdivision (e) below.

(e) Any controversy or claim arising out of or relating to a proposed candidate's statement's compliance with the provisions of this section shall be determined by a third-party arbitrator conducting arbitration in accordance with the laws of the State of California and as provided below, and the Labor Arbitration rules of the American Arbitration Association (AAA) in effect on November 15, 2000, to the extent the AAA rules are not in conflict with this subdivision.

(1) A written request for arbitration related to any candidate's statement must be filed with CalPERS Election Coordinator by a candidate not later than 5 working days after the Election Coordinator's mailing of candidate statements pursuant to subdivision (c) above. Upon the Election Coordinator's receipt of a request for arbitration, the Board or its delegate shall designate an independent, neutral third-party arbitrator to administer the arbitration. No board member who is a candidate for election that is the subject of the arbitration may participate in the selection of the arbitrator except as specified in subdivisions (2-6) below.

(2) A request for arbitration shall set forth the nature of the controversy or claim, a brief statement of the basis of the controversy or claim, and the remedy sought.

(3) Upon receipt of a request for arbitration under this section, the Election Coordinator shall mail a copy of the request to all candidates for the same seat and to the third-party arbitrator. Within seven days of mailing the request for arbitration by the Election Coordinator, any candidate for the seat that is the subject of the arbitration may request to participate in the arbitration by filing a written request with the Election Coordinator, which the Coordinator shall promptly forward to the third party arbitrator.

(4) The third-party arbitrator shall promptly submit simultaneously to each party requesting to participate an identical list of names of three persons chosen from its panel of arbitrators. Each party shall have seven days from the date the list is submitted in which to file an objection with the third-party arbitrator to any name, number the remaining names to indicate order of preference, and return the list to the third-party arbitrator. From among the persons for whom no objection has been filed, and in accordance with the designated order of preference, the third-party arbitrator shall invite an arbitrator to serve. If every proposed arbitrator receives an objection, or if the arbitrator selected declines or is unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the third-party arbitrator shall make the appointment from among other members of the arbitrator's panel without the submission of any additional list.

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(5) Any arbitration shall be held in the City of Sacramento. Any candidate for the same office may participate in the arbitration by filing notice with CalPERS. The determination of the arbitrator shall be rendered within 30 days of selection of an arbitrator and shall be final and binding on CalPERS and candidates for office.

(6) Each candidate participating in the arbitration shall bear its own expenses in connection with the preparation and presentation of his or her case at the arbitration proceedings. The fees and expenses of the arbitrator and all other expenses of the arbitration shall be borne equally by each candidate participating in the arbitration.

(f) The Election Coordinator shall distribute all deadlines and instructions related to candidate statements in writing to all candidates.

(g) Nothing in this section shall be deemed to make candidate statements or the authors thereof free or exempt from any civil or criminal action or penalty because of any statements offered for printing or distributed to voters. Information contained in the statement is the responsibility of the candidate and the California Public Employees' Retirement System accepts no responsibility for the validity of the statement or the contents thereof.

The amendments to this section adopted on March 21, 2001 shall become operative on January 16, 2002. The amendments to Section 554.4 filed August 24, 1998 shall remain in effect until that time.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:

1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
3. Change without regulatory effect amending first paragraph filed 6-12-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 24).
4. Amendment of first paragraph and Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
5. Amendment filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
6. Change without regulatory effect correcting subsections (a) and (b) of 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
7. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in *California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al.*, No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
8. Amendments adopted by CalPERS Board 3-21-2001; submitted to OAL and filed 8-2-2001; operative 1-16-2002 (Register 2001, No. 31).
9. Amendment of subsections (a) and (c) filed 4-26-2012; operative 5-26-2012 (Register 2012, No. 17).

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§ 554.5. Ballot Distribution.

(a) Except as provided in paragraph (b), below, the Election Coordinator shall cause ballots, candidate statements and postage paid return envelopes to be mailed by the System directly to the residence of each retired member, and to each eligible active member for whom the Board has a residence address and is permitted by law to use such address to mail these election materials. For those eligible active members for whom the Board does not have access to a legally permissible residence address, the Election Coordinator shall forward their ballots, candidate statements, and postage paid return envelopes to the Agency Election Officer with instructions to ensure that these materials are immediately provided to the identified member(s). For purposes of this section, "eligible active member" means a member of the System who is employed, on the date specified in the Notice of Election's criteria for voter eligibility, by an employer participating in the System.

Marked ballots shall be returned to the location designated by PERS in the postage paid return envelope provided by the System, or another comparable envelope, and the reverse side shall be signed by the voter certifying under penalty of perjury that the voter is eligible to vote in the election; otherwise the ballot shall not be valid.

(b) Where only one candidate has been nominated in accordance with section 554.3, the Election Coordinator shall, upon verification of the signatures presented in the nominating petition and upon the candidate's certification of his/her nomination acceptance, cancel the remaining election procedures and designate the single candidate to be certified as elected by the Secretary of State. Upon the Secretary of State's certification, the Board member elected through this process shall take his/her office on the day provided for by statute.

NOTE: Authority cited: Sections 20096 and 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:
1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment filed 7-9-84; effective thirtieth day thereafter (Register 84, No. 28).
3. Amendment filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
4. Amendment of newly designated subsection (a) and new subsection (b) filed 7-17-95 as an emergency; operative 7-17-95 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-14-95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-17-95 order including amendment of Note transmitted to OAL 10-27-95 and filed 12-1-95 (Register 95, No. 48).
6. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).

§ 554.6. Ballot Counting and Runoff Election

(a) Signed ballot envelopes shall not be opened until the deadline for final receipt of valid ballots. On the date specified in the Notice of Election at the location designated by CalPERS, the sealed signed envelopes containing the

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valid ballots shall be opened and canvassed publicly by an independent, neutral agent appointed by CalPERS for the purpose. The candidate having a majority of votes, or the winning lot as drawn by the Secretary of State in case of a tie vote, or the single candidate as provided in section 554.5(b), shall be certified by the Secretary of State as having been elected.

(b) Where the Board members elected under Government Code section 20090, subdivision (g)(1) are elected in the same election, the two positions shall be separately designated Position A and Position B. The position held by Charles Valdes on November 15, 2000 shall thereafter be designated Position A. The position held by William B. Rosenberg on November 15, 2000 shall thereafter be designated Position B.

(c) The candidate receiving the majority vote for each position shall be certified by the Secretary of State as having been elected. In the event that no candidate for any position receives a majority of votes (i.e., 50% of votes cast plus one vote), a runoff election will be conducted involving the two candidates who received the highest number of votes.

(d) The amendments to this section adopted on March 21, 2001 shall become operative on January 16, 2002. The amendments to this section filed December 1, 1995 shall remain in effect until that time.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20090 and 20096, Government Code.

HISTORY:

1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment filed 7-9-84; effective thirtieth day thereafter (Register 84, No. 28).
3. Amendment filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
4. Amendment filed 7-17-95 as an emergency; operative 7-17-95 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-14-95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-17-95 order transmitted to OAL 10-27-95 and filed 12-1-95 (Register 95, No. 48).
6. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
7. Amendment of section heading and section filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
8. Change without regulatory effect correcting subsection (a) of 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
9. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al., No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
10. Amendment of section heading, section and Note adopted by CalPERS Board 3-21-2001; submitted to OAL and filed 8-2-2001; operative 1-16-2002 (Register 2001, No. 31).

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11. Change without regulatory effect designating last two paragraphs as subsections (c) and (d) filed 7-11-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 28).

§ 554.7. Notice of Election Results

(a) Within three working days after the public ballot canvassing of the election and runoff election, if any, or after verification of the nominating signatures and certification of nomination acceptance as provided in section 554.5(b), the Election Coordinator shall post the unofficial election results and transmit these unofficial results to each candidate, utilizing express mail services.

(b) Following certification by the Secretary of State, the Election Coordinator shall notify the Executive Officer, candidates, Board members, staff and other interested parties of the official, certified results. Notification to the newly elected Board member shall include an Oath of Office form. This form is to be signed by the member in the presence of a notary public and returned to the System. The Election Coordinator shall file the Oath with the Secretary of State.

(c) Election results shall be publicized to agencies and members in a manner prescribed by the Board.

The amendments to this section adopted on March 21, 2001 shall become operative on January 16, 2002. The amendments to this section filed July 17, 1995 shall remain in effect until that time.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:

1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment filed 7-9-84; effective thirtieth day thereafter (Register 84, No. 28).
3. New subsection (a), designation and amendment of subsection (b), and designation of subsection (c) filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
4. Amendment of subsection (a) filed 7-17-95 as an emergency; operative 7-17-95 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-14-95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-17-95 order including amendment of subsection (b) transmitted to OAL 10-27-95 and filed 12-1-95 (Register 95, No. 48).
6. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
7. Amendment of subsection (a) filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
8. Change without regulatory effect correcting subsection (a) of 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
9. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al., No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).

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10. Amendment of subsection (a) adopted by CalPERS Board 3-21-2001; submitted to OAL and filed 8-2-2001; operative 1-16-2002 (Register 2001, No. 31).

§ 554.8. Recount of an Election

(a) A request for a recount shall not delay the seating of an elected Board member. Such elected Board member shall take office, in accordance with the published election schedule, subject to the potential termination of such Board membership as a result of the recount.

(b) A candidate in the affected Board member election may file a written request with the Election Coordinator at the Sacramento Office of CalPERS for recount within ten working days following the mailing of the unofficial election results of the runoff election, if any, otherwise, of the election; otherwise, there shall be no opportunity for requesting a recount and the certified election results stand as the official results.

(c) A written request for a recount shall specify the election to be recounted, shall be signed by the candidate requesting the recount, and may specify any other relevant material to be examined.

(d) The Election Coordinator shall set a date for the recount upon receipt of the written request, and shall confirm this date upon receipt of the estimated cost to conduct the recount. The estimated cost of conducting a recount will include the system's administrative cost and the costs of the ballot counting contractor, if applicable. Legal tender of the amount of the estimated cost of conducting the recount shall be submitted by the candidate requesting the recount to the Election Coordinator within three working days following notification of the estimated cost to conduct the recount; otherwise, the recount shall be terminated.

(e) If the results of the recount do not change the ranking of the candidates (either the unofficial ranking or the certified ranking, depending upon whether the unofficial results have been certified by the Secretary of State as of the date of the recount), then the unofficial results shall, upon receipt of Secretary of State certification, stand as the official election results. In this case, if the actual cost of the recount is less than the estimated cost deposited by the requester, CalPERS shall refund the amount which exceeds the actual cost; if the actual cost of the recount is more than the estimated cost, CalPERS shall invoice the requester for the difference.

(f) If the results of the recount do change the ranking of the candidates (either the unofficial ranking or the certified ranking, depending upon whether the unofficial results have been certified by the Secretary of State as of the date of the recount), then the recount results shall be resubmitted to the Secretary of State for certification as the official election results. In this case, CalPERS shall refund the amount of the estimated cost deposited by the requester.

The amendments to this section adopted on March 21, 2001 shall become operative on January 16, 2002. The amendments to this section filed August 24, 1998 shall remain in effect until that time.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:
1. New section filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
2. Change without regulatory effect amending subsection (f) filed 6-12-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 24).
3. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
4. Amendment of subsections (b), (e) and (f) filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
5. Change without regulatory effect correcting subsection (b) of 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
6. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al., No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
7. Amendment of subsections (b), (e) and (f) adopted by CalPERS Board 3-21-2001; submitted to OAL and filed 8-2-2001; operative 1-16-2002 (Register 2001, No. 31).

§ 554.9. Protest of an Election

(a) The filing of a protest shall not delay the seating of an elected Board member. Such elected Board member shall take office, in accordance with the published election schedule, subject to the potential termination of such Board membership as a result of the protest. Any newly elected member, as the result of a protest, shall hold office for a period equal to the remainder of the term of the vacated office.

(b) Any party who is an active or retired member of CalPERS, eligible to vote in the applicable Board member election, may protest a runoff election, if any, or an election, if no runoff election is conducted. A protest shall be filed with the Election Coordinator at the Sacramento Office of CalPERS within ten working days following the mailing of the certified election results. A protest shall be in writing, shall be identified using the word "protest", shall specify the election, and shall state the grounds of the protest and suggested remedy.

(c) Upon receipt of a valid and timely protest, the Election Coordinator shall mail a copy of the request to all candidates for the same seat. The Board or its designee shall appoint an independent, neutral agent which shall designate a Protest Panel using the following process. The independent agent shall promptly submit simultaneously to each candidate for the same office that is subject of the protest an identical list of names of at least five persons chosen from its panel of arbitrators. Each candidate shall have seven days from the date the list is

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submitted in which to file an objection with the agent to any name, number the remaining names to indicate order of preference, and return the list to the agent. From among the persons for whom no objection has been filed, and in accordance with the designated order of preference, the agent shall invite members to serve on the Protest Panel. If every proposed panel member receives an objection, or if a panel member selected declines or is unable to act, or if any other reason the appointment cannot be made from the submitted list, the agent shall make the appointment from among other members of the agent's panel of arbitrators without the submission of any additional list. No Board member who is a candidate for election that is the subject of the protest may participate in the selection of the Protest Panel. The decision of the Protest Panel shall be final. The Protest Panel shall be comprised of no less than three people, all of whom are neither employed by CalPERS nor otherwise interested in the outcome of the election that is the subject of the protest. For purpose of the foregoing sentence only, membership in CalPERS does not, by itself, constitute an "interest in the outcome of the election." The Protest Panel shall consider written and/or oral arguments submitted by the protestor and any other interested party, including the Board's staff. Any oral proceedings shall be held in the City of Sacramento. The determination of the Protest Panel shall be rendered within 30 days of selection of the Panel and shall be final and binding on CalPERS and candidates for office. Other procedures, including those for receiving and considering arguments and factual allegations, shall be determined by the Protest Panel in its sole discretion. A protest shall only be granted upon a finding that Board-adopted election procedures were not substantially followed and that, without this lack of substantial compliance, the election outcome would likely have been different.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20121, Government Code; Duva, Calif. School Employees' Assoc. v. PERS., et al., 1993 Sacramento Superior Court Case No. 375842.

HISTORY:

1. New section filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
2. Amendment of Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
3. Amendment filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
4. Change without regulatory effect correcting subsections (b) and (c) of 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
5. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al., No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
6. Amendment filed 8-2-2001; operative 9-1-2001 (Register 2001, No. 31).

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§ 554.10. Ballot Designations

Each candidate for an elective Board member position may choose a Ballot Designation at the time he or she certifies acceptance of nomination as a candidate. The Ballot Designation will be printed below the candidate's name, on the ballots that are mailed to each, eligible voter. The Ballot Designation must be accurate and not misleading.

Each candidate must choose a single Ballot Designation, in conformity with the following guidelines:

(a) If the candidate already holds the Board member position to which he or she is seeking election, then the candidate may use the single word "Incumbent" and this is the only time it may be used as a designation. The word "Incumbent" may not be used in conjunction with the candidate's title as a CalPERS Board member.

(b) If the candidate holds an elected office at any level of government, or is an elected or appointed judge for a court of record in California, at the time he or she certifies acceptance of nomination, he or she may use the title of that office. If the candidate is retired from that office, the title may still be used, if preceded by the word "Retired." The candidate shall not make any other reference to a prior elected or appointed office, such as by the word "former" or "ex."

(c) The candidate may designate the principal profession or occupation in which he or she is engaged, at the time he or she certifies acceptance of nomination. This designation may be general or specific, but it shall not exceed three words in length. If the candidate is retired from the principal profession or occupation, it may still be designated if preceded by the word "Retired." Any geographic reference that is part of the designation shall count as one word, but the word "Retired" shall not count. The candidate shall not make any other reference to prior professional or occupational status, such as by the word "former" or "ex."

(d) The candidate shall not use the Ballot Designation to state, or imply, an endorsement or alliance. This means the designation cannot name a political party or any racial, religious or ethnic group. The candidate shall not use the Ballot Designation to state, or imply, a particular level of skill or performance. This means the designation cannot be modified by adjectives such as outstanding, leading, expert, virtuous, or eminent.

The determination of whether or not a Ballot Designation conforms to these guidelines shall be made in the sole discretion of the Election Coordinator. If a Ballot Designation does not conform, in whole or in part, it shall be reformed by the Election Coordinator with prior notice to the candidate, before it is printed on the ballots.

The Election Coordinator will provide each candidate with written criteria for choosing a Ballot Designation in conformity with these guidelines, including examples of designations that were used in prior elections. The choice of Ballot Designation must be made by each candidate, and the California Public

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Employees' Retirement System accepts no responsibility for the content or validity of a given Ballot Designation.

The amendments to this section adopted on March 21, 2001 shall become operative on January 16, 2002. The addition of this section filed August 24, 1998 shall remain in effect until that time.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

HISTORY:
1. New section filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
2. Amendment of subsections (a) and (d) filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
3. Change without regulatory effect correcting subsection (a) of 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
4. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al., No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
5. Amendment of subsections (a) and (d) adopted by CalPERS Board 3-21-2001; submitted to OAL and filed 8-2-2001; operative 1-16-2002 (Register 2001, No. 31).

§ 555. Action of Executive Officer.

The Executive Officer is hereby authorized to act: on any application for refund of contributions, crediting of service, correction of records, retirement for disability or service, and death benefits and allowances; and to fix and authorize the payment of any refund, allowance or benefit to which such applicant may be found to be entitled; to cause medical examination of retired persons; and to reinstate such persons from retirement upon his determination that disability does not exist. The Executive Officer may refer the question of an applicant's entitlement to any refund, allowance or benefit or of his reinstatement from retirement to a hearing officer for hearing.

The Executive Officer is hereby authorized and empowered to delegate to his subordinates authority to take any such action on his behalf.

NOTE: Authority cited for Article 2: Section 20120, Government Code. Reference: Sections 20107 and 20133, Government Code.

HISTORY:
1. New Article 2 (§§ 555 through 555.4) filed 8-10-64; effective thirtieth day thereafter (Register 64, No. 17).
2. Amendment filed 2-26-75; effective thirtieth day thereafter (Register 75, No. 9).

§ 555.1. Right of Appeal.

Any applicant dissatisfied with the action of the Executive Officer on his application, other than his referral of the matter for hearing, may appeal such action to the Board by filing a written notice of such appeal at the offices of the Board within thirty days of the date of the mailing to him by the Executive Officer, at his most recent address of record, of notice of the action and right of appeal. An appeal shall contain a statement of the facts and the law forming the basis for appeal. Upon a satisfactory showing of good cause, the Executive Officer may grant additional time not to exceed 30 days, within which to file such appeal.

HISTORY:
1. Amendment filed 4-28-76; effective thirtieth day thereafter (Register 76, No. 18).

§ 555.2. Statement of Issues.

Any applicant filing an appeal shall be entitled to a hearing, and upon the filing of an appeal in accordance with these rules, or upon the Executive Officer's referral of any question for hearing, the Executive Officer shall execute a statement of issues. Such action of the Executive Officer shall not preclude the Board from recalling the proceedings for its review or hearing.

§ 555.3. Accusation.

Any member whose retirement for disability has been requested by his employer shall be entitled to a hearing. The Executive Officer, upon determination that a member shall be retired for disability on such application, shall file an accusation and serve a copy thereof on the member and his employer.

§ 555.4. Hearings.

All hearings shall be conducted in accordance with the provisions of Chapter 5, Part 1, Division 3, Title 2 of the Government Code. Each case shall be heard by the hearing officer alone. All proposed decisions of hearing officers shall be referred to the Board. The Executive Officer is hereby authorized and empowered to take, in the name and on behalf of the Board, any action which the Board is authorized or directed by law to take with respect to procedural and jurisdictional matters in connection with any case in which a statement of issues or accusation has been filed.

§ 556. Service Fees.

Reasonable requests for information and service with respect to a claim for benefits shall be satisfied without charge, except that there shall be a standard charge for copywork. With respect to matters other than a claim for benefits, requests for information and service shall be satisfied only upon agreement to pay to the System a fee representing cost to the System for providing such information and service.

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NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 20120-20124, Government Code.

HISTORY:
1. New section filed 12-6-77; effective thirtieth day thereafter (Register 77, No. 50).

§ 558. Incompatible Activities Statement.

The following activities are deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of PERS officers or employees:

(1) Using the prestige or influence of the state or PERS for the officer's or employee's private gain or advantage or the private gain of another.

(2) Using state time, facilities, equipment (including but not limited to Xerox machines, telephones, vehicles, postage meters, data processing or word processing equipment, or personal computers) or supplies for private gain or advantage.

(3) Using, or having access to, confidential information available by virtue of state employment (including but not limited to confidential data filed by a member or beneficiary with the board, and confidential contract, financial, investment or legal information) for private gain or advantage.

(4) Providing confidential information (including but not limited to confidential data filed by a member or beneficiary with the board, and confidential contract, financial, investment or legal information) to persons to whom issuance of this information has not been authorized.

(5) Receiving or accepting money or any other consideration (including but not limited to entertainment, lodging, travel expenses, services or other items) from anyone other than the state for the performance of his or her job duties as a state officer or employee.

(6) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.

(7) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the Public Employees' Retirement System or whose activities are regulated or controlled by PERS under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.

(8) Subject to any other laws, rules, or regulations as pertains thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

The following activities are specifically deemed to be incompatible, inconsistent, in conflict with, or inimical to the duties of PERS officers and

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employees due to the nature of the responsibilities of the Public Employees' Retirement System:

(9) Accepting commercial transportation or lodging of any type, or accepting direct or indirect payment or reimbursement for lodging or transportation of any type from any person, business entity, or organization doing or seeking to do business of any kind with PERS, except where:

(A) the travel and/or accommodations or payment or reimbursement for such are provided in connection with training, or a meeting, seminar, or conference which the Executive Officer, or the Board President where the proposed attendee is the Executive Officer, has determined to be of educational value to the attendee; and

(B) the acceptance of the transportation, lodging, payment or reimbursement for such is not prohibited by any other section of this regulation or by any other provision of law.

PERS or the State of California shall pay for travel and lodging expenses of PERS officers and employees on PERS-related business whenever possible. Only if the system or the state is unable to pay the officer's or employee's travel or lodging expenses may a PERS officer or employee accept commercial transportation or lodging of any type, or reimbursement or direct or indirect payment for lodging or transportation of any type, from sources other than PERS or the State of California.

Prior to accepting commercial transportation or lodging or payment or reimbursement for lodging and/or transportation of any type from a source other than PERS or the State of California, the Assistant Executive Officers and employees shall obtain written approval from the Executive Officer, and the Executive Officer shall obtain prior written approval from the Board President.

(10) Claiming travel expenses from PERS for other than state business. No employee shall accept dual payment for travel expenses.

(11) Initiating contact with state administrators or legislative personnel for the purpose of presenting PERS' policy or position on legislation or amendments thereto or initiative or referendum petitions, unless such act is a part of the officer's or employee's official duties. This prohibition does not preclude officers or employees, as private citizens, from contacting legislative or administrative personnel.

(12) Publishing any writing or making any statement to the media which directly or indirectly refers to his or her connection with PERS unless such an act is part of the officer's or employee's official duties, or unless such writing or statement contains an appropriate disclaimer indicating that the views expressed are his or her own and do not necessarily reflect the views of PERS or the Board.

(13) PERS employees and officers shall report all gifts, gratuities and other considerations which are not prohibited by this regulation, except those which are from family members or which are clearly given in a personal or social setting. Such report shall be on PERS' gratuity reporting form, in the month the

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gift was received. Even gifts which have no monetary value or are of nominal value are to be reported.

(14) All gifts, gratuities and other consideration which are prohibited by the provisions of this regulation are to be returned to the sender whenever possible. The return of prohibited gifts and other consideration can be at PERS' expense, through the mail room, and can include any insurance needed.

(15) For purposes of this regulation, "outside employment" is defined as any services performed by a PERS employee or officer on his or her own time, during other than normal working hours, for which he or she receives any form of compensation.

Outside employment is deemed inconsistent, incompatible, in conflict with, or inimical to the officer's or employee's duty to PERS if it violates any of the provisions of this regulation, or any other law.

PERS officers and employees must obtain prior approval, in the manner described below, before engaging in the types of employment described in (A)-(C):

(A) Outside employment with any person, organization or business entity of any type that contracts with PERS to provide goods or services, or contracts with PERS for any other purpose.

(B) Being a partner in, or acting as an officer or board member of, or as a consultant or contractor to, or owning more than a five percent ownership interest in any business, institution, or any agency which he/she knows has financial dealings with PERS.

(C) Any employment, the nature of which is parallel to or closely allied with the services provided to PERS by the officer or employee, including but not limited to, attorneys performing outside legal work, investment officers providing outside investment services, or actuaries providing outside actuarial services.

A PERS officer or employee who wishes to engage in outside employment or an activity which meets the criteria set forth above in subsection (C), must first make a written request for and receive a written determination that such outside employment or activity is not inconsistent, incompatible, or in conflict with the officer's or employee's duty to PERS. An employee will obtain this determination from his or her Division Chief or function head. Division Chiefs or function heads, and Assistant Executive Officers, will obtain this determination from the PERS Executive Officer.

The PERS Executive Officer shall not engage in such outside employment which meets the criteria set forth above in subsection (C), unless he or she has obtained prior approval from the Board by way of formal Board action.

An officer or employee who is engaged in outside employment on the effective date of this regulation may continue such employment while the request for determination is being processed.

This regulation does not attempt to specify every possible limitation on officer or employee activities that might be determined incompatible under Government Code section 19990.

Nothing in this regulation shall exempt any person from applicable provisions of any other laws of this state. The standards of conduct set forth in this regulation are in addition to those prescribed in PERS' Conflict of Interest Code.

If a PERS officer or employee violates any provision of this regulation, he or she will be liable for disciplinary action to include possible dismissal or removal from office.

If a PERS officer or employee is notified that he or she has violated any provision of this regulation, or that a category of outside employment is prohibited, the officer or employee may appeal through PERS' personnel complaint procedure.

NOTE: Authority cited: Section 20120, Government Code. Reference: Section 19990, Government Code.

HISTORY:
1. New section filed 1-17-89; operative 2-16-89 (Register 89, No. 11).

§ 558.1. Regulations Enacting Personal Trading Guidelines for CalPERS Employees Personal Trading.

(a) Definitions.

(1) Blackout Period. Blackout Period means the three-day period of time that commences one market day before and ends one market day after a transaction in Covered Securities by CalPERS.

(2) Board Member. Board Member means the CalPERS Board members and their appointed designee(s).

(3) Covered Account.

(A) Covered Account includes the following:

(i) An account, not identified as exempt in subdivision (B), with the capability of trading Covered Securities to which a Covered Person holds legal title or over which the Covered Person has the power to place or direct trades;

(ii) Self-directed brokerage accounts offered through 401(k) or 457 accounts or sub-accounts from a current or previous employer of the Covered Person. An employer sponsored retirement savings plan that offers a brokerage account as an investment option is not a Covered Account (e.g., a Savings Plus Program account that offers a self-directed Schwab 401(k) is exempt; however, the brokerage account itself (e.g., the Schwab brokerage account) is a Covered Account).

(B) Covered Account does not include the following:

(i) The accounts in which a spouse (by virtue of marriage under section 300 of the California Family Code) or registered domestic partner (by virtue of

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domestic partnership established under sections 297, et seq., of the California Family Code) conducts trading activity by virtue of their employment (for example: a money manager, a financial advisor, etc.) are exempt from the regulation unless the spouse or registered domestic partner is employed by CalPERS;

(ii) Bank accounts;

(iii) Treasury direct accounts;

(iv) Mutual fund-only accounts;

(v) Employer sponsored 401(k) or 457 accounts limited to transactions in exempt securities, as identified in subdivision (6)(B) (e.g., Non self-directed accounts in the State of California's Savings Plus Program);

(vi) 403(b) accounts;

(vii) 529 accounts;

(viii) Managed Accounts; and

(ix) An account where CalPERS has investment discretion or the ability to effect transactions.

(4) Covered Person. Covered Person means a person holding any of the positions listed below.

(A) Board Members;

(B) The CalPERS Chief Executive Officer;

(C) The CalPERS Deputy Executive Officers;

(D) The CalPERS Assistant Executive Officers;

(E) The CalPERS Chief Financial Officer;

(F) The CalPERS Chief Actuary;

(G) All employees of the CalPERS Office of Enterprise Risk Management;

(H) All employees of the CalPERS Investment Office;

(I) The CalPERS Division Chief of Fiscal Services and all employees of the CalPERS Investment/Fund/Retirement Program Accounting Section of the Fiscal Services Division, except the Retirement Program Accounting Units;

(J) All employees of the CalPERS Office of Audit Services, except Senior Program Evaluators (Public Agency Team) and all employees directly reporting to the Senior Program Evaluator (Public Agency Team);

(K) All employees of the CalPERS Benefit Program Policy & Planning Branch whose positions are designated in the CalPERS Conflict of Interest Code at 2 Cal. Code Regs. Section 560;

(L) All employees (and their direct supervisor and/or manager) of the CalPERS Information Technology Services Branch who have access to CalPERS real-time trade information and/or non-public investment related information by virtue of their job duties;

(M) The CalPERS General Counsel and Deputy General Counsel. The Assistant Chief Counsel (Investments) and the Staff Counsel and Senior Staff Counsel reporting to the Assistant Chief Counsel (Investments). The Assistant Chief Counsel, Senior Staff Counsel and Staff Counsel who advise the CalPERS

Health Plan Administration Division of the Benefit Programs Policy and Planning Branch. The Assistant Chief Counsel, Senior Staff Counsel and Staff Counsel who advise on CalPERS' procurement or services contracts;

(N) All management staff of the Contracts and Procurement unit of the Operations Support Services Division whose positions are designated in the CalPERS Conflict of Interest Code at 2 Cal. Code Regs. Section 560;

(O) The secretary, assistant, or an individual, regardless of his or her formal job title, who serves in a functional capacity of one who provides administrative assistance to any person holding a position listed in (A) through (N), above;

(P) The spouse (by virtue of marriage under section 300 of the California Family Code) or registered domestic partner (by virtue of domestic partnership established under sections 297, et seq., of the California Family Code) of any person holding a position listed in (A) through (O), above.

(5) Covered Person Employee. Covered Person Employee means a Covered Person who is employed by CalPERS.

(6) Covered Security(ies). Covered Securities means all of the following except for the securities excluded in subdivision (6)(B);

(A) Securities includes all of the following:

(i) Publicly traded securities (including but not limited to derivatives, options, puts and calls, with the exception of publicly traded instruments identified in subsection (B)).

(ii) Unregistered debt and equity offerings;

(iii) Interests in Private Placement Vehicles;

(iv) Interests in hedge funds;

(v) Fixed income instruments;

(vi) Exchange-traded notes;

(vii) Private offerings;

(viii) Initial Public Offerings;

(ix) Interests in real estate (limited to transactions made through a Private Placement Vehicle);

(x) Exchange traded futures and options on futures

(xi) Non-Index-based exchange traded funds; and

(xii) Closed-end mutual funds.

(B) Covered Securities does not include any of the following:

(i) Money-market mutual funds and short-term investment funds;

(ii) Collective trust funds;

(iii) Open-end mutual funds (registered or non-registered);

(iv) Index-based securities (ETFs) and options on these securities;

(v) Commercial paper;

(vi) Unit investment trusts;

(vii) Certificates of deposit;

(viii) U.S. Treasury obligations;

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(ix) Debt securities issued by state and municipal governments and agencies of the United States government; and

(x) Variable and fixed rate annuity insurance products and life insurance.

(7) Designated Brokerage. Designated Brokerage means a broker or broker-dealer approved by CalPERS in accordance with subdivision (b).

(8) Holding Period. Holding Period is a period of time designated by CalPERS and means the 30 calendar day period between the acquisition and sale, and the 30 calendar day period between sale and re-acquisition, of a Covered Security, on a last-in first-out basis.

(9) Managed Account. Managed Account means an account with the capability of trading Covered Securities that meets all of the following criteria:

(A) It is managed by a third party who is not a Covered Person,

(B) No Covered Person has the power to affect or ability to control or influence investment decisions in the account, and

(C) No Covered Person communicates (directly or indirectly) with the person(s) with investment discretion regarding specific trade activity in the account.

(10) Managed Account Certification. A Managed Account Certification, provided by a third-party money manager, that certifies in writing the arrangement whereby a third-party Managed Account provider has full discretion to act as investment advisor and manage any investment or trading account for another person.

(11) Market Day. Market Day means a trading day when U.S. markets are open for executing trades during the regular market session (Monday through Friday 9:30 a.m. to 4 p.m. Eastern Time).

(12) On-Line Platform. On-Line Platform means a web-based, on-line compliance platform provided by CalPERS to all Covered Person Employees and Board Members.

(13) Private Placement Vehicle. A Private Placement Vehicle means an offering of securities which are exempt from registration under Section 3(a)(11), Section 4(2), Regulation A or Rules 504, 505 or 506 of Regulation D of the Securities Act of 1933 or Section 25102 of the California Corporations Code.

(14) Restricted List. A Restricted List means the list of Covered Securities that identifies companies which CalPERS Employees and/or Board Members have information that may be material and non-public.

(15) Transfer of a Security. Transfer means to move a Covered Security to a different account(s) whereby the Covered Person continues to hold legal title, or change ownership from the Covered Person to a different party.

(16) Transfer of an Account. Transfer of an account means the transfer of one Covered Account to another account. An example of this would be the consolidation of Individual Retirement Accounts (IRAs). This activity is permissive; however, the accounts and their securities are still considered covered after the transfer.

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(b) Designated Brokerages.

(1) All Covered Accounts of Covered Persons must be maintained at a Designated Brokerage.

(2) CalPERS shall maintain a list of approved Designated Brokerages. The addition of a broker or broker-dealer to this list of Designated Brokerages will be based on the broker or broker-dealer's ability to provide account activity information electronically to the On-Line Platform, CalPERS ability to meet any broker or broker-dealer account minimums, and cost. All upfront and ongoing expenses to establish the connection between the broker or broker-dealer with the On-Line Platform will be paid by CalPERS.

(3) A Covered Person Employee has 60 days from the later of (A) the commencement of his or her employment with CalPERS, or (B) the effective date of this section to move all his or her Covered Accounts and the Covered Accounts of his or her spouse or registered domestic partner to a Designated Brokerage. A Board Member has 60 days from the later of (A) the date he or she assumes office, or (B) the effective date of this section, to move all his or her Covered Accounts and the Covered Accounts of his or her spouse or registered domestic partner to a Designated Brokerage.

(4) If it is not possible to move a particular account to a Designated Brokerage, the Covered Person Employee or Board Member is responsible for obtaining an exception to maintain the Covered Account from the Division of Enterprise Compliance. These Covered Accounts will require pre-clearance as outlined under subdivision (c).

(c) Pre-Clearance Approval. Covered Person Employees and Board Members are required to obtain pre-clearance approval before the purchase, sale or transfer of Covered Securities of any size is executed in a Covered Account, unless the transaction is exempt from the requirement of pre-clearance approval under subdivision (g).

(1) Pre-Clearance Approval of Publicly Traded Covered Securities.

(A) To obtain pre-clearance approval of a publicly traded Covered Security, a Covered Person Employee or Board Member must receive approval of the proposed trade from the On-Line Platform and attest the transaction is not prohibited under subdivision (h) of this section. The On-Line Platform will require that Covered Person Employees and Board Members input standard trade details when requesting pre-clearance approval through the On-Line Platform. Information required for public securities includes: brokerage account, security type, security identifier, number of shares, the action (buy or sell), and the type of order (market or limit) as applicable.

(B) The Covered Person Employee or Board Member will normally receive immediate notification as to whether the proposed trade is approved or denied. Requests for pre-clearance approval shall only be denied if the transaction would violate any of the trading restrictions set forth in subdivisions (d), (e), (f) or (h) of this section. The notice of denial shall indicate the reason for denial. If the

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proposed trade is approved, the approval is valid only during the current market session, or the next open market session if the approval is received by the Covered Person Employee or Board Member after the market closes. The same standard applies for pre-clearance requests placed for extended hours trading (5am-5pm, Monday through Friday, Pacific Time) Separate pre-clearance approval is required for extended hours trading and is only valid for that extended market trading session. Limit and stop order approvals will remain valid for all pre-clearance requests for the term of the order.

(C) If the information in a pre-clearance request is a modification to a previously approved order, the pre-clearance process must be completed again prior to undertaking the transaction.

(D) If the transaction is not executed within the approved market session, the pre-clearance process must be repeated prior to undertaking a new transaction (excluding limit and stop orders). Limit and stop order approvals will remain valid for the term of the order.

(2) Pre-Clearance Approval of Covered Securities Not Publicly Traded. To obtain pre-clearance approval of Covered Securities that are not publicly traded, a request must be submitted to the Division of Enterprise Compliance through the Pre-Clearance for Non-Public Securities accessible through the On-Line Platform. A Covered Person Employee or Board Member must input the details of the proposed transaction and attest the transaction is not prohibited under subdivision (h) of this section. The On-Line Platform will require that Covered Person Employees and Board Members input standard trade details when requesting pre-clearance approval through the On-Line Platform. Information required for private securities includes: legal name, the investment value and questions relating to whether or not potential conflicts exist with CalPERS investment activities. The Covered Person Employee or Board Member will receive notification within one CalPERS business day as to whether the proposed trade is approved or denied. Requests for pre-clearance approval will only be denied if the transaction would violate any of the trading restrictions set forth in subdivisions (d), (e), (f) or (h) of this section.

(3) Pre-Clearance Request by a Disabled Covered Person Employee or Board Member. In the event a Covered Person Employee or Board Member is unable to pre-clear trades as the result of a disability, he or she will be provided a reasonable accommodation and offered an alternative method to obtain pre-clearance with the Division of Enterprise Compliance. This alternative method will also exist for reconsideration and reporting requirements as described in subdivision (i), (j) and (k).

(4) Pre-Clearance of a Transfer of an Account. The pre-clearance of the transfer of an account from one account to another account, from one institution to another institution or a consolidation of two accounts (for example, the consolidation of two IRA accounts) is not required. For the transfer of Covered Securities between any accounts, refer to (1)(A) of this subdivision.

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(d) Holding Period. Unless the transaction is a limit or stop order, or is exempted by subdivision (g), Covered Persons are prohibited from selling or transferring Covered Securities during the Holding Period. Trading activity to circumvent the Holding Period requirement is not permitted and will be considered a violation of this section.

(e) Blackout Period. Unless the transaction is exempted by subdivision (g), Covered Persons are prohibited from buying, selling or transferring Covered Securities during the Blackout Period. The Blackout Period prohibition does not apply to a Covered Person's transactions in the Covered Securities that CalPERS has traded (during the Blackout Period) in a passively managed portfolio (i.e., a portfolio that is designed to track the performance of a broad-based securities index). In addition, an exemption to the prohibition to the Blackout Period has been granted by CalPERS if pre-clearance approval of the transaction was obtained in accordance with the pre-clearance process outlined in subdivision (c) prior to CalPERS inputting a transaction in the same or equivalent Covered Security.

(f) Restricted List. Unless the transaction is exempted by subdivision (g), Covered Persons are prohibited from buying, selling or transferring a Covered Security while it is on the Restricted List. The purchase or sale of a Covered Security on the Restricted List that is the result of the execution of a previously pre-cleared limit or stop order is not a violation of this prohibition provided the Covered Security was not on the Restricted List at the time the limit or stop order was placed.

(g) Transactions Exempt from Pre-Clearance, Holding Period, Blackout Period, and Reporting Provisions. Transactions in the following types of Covered Securities, instruments or accounts are exempt from the pre-clearance requirements of subdivision (c), the Holding Period requirements of subdivision (d), the Blackout Period prohibition of subdivision (e), and the reporting requirements of subdivision (j):

(1) Direct Investment Plans (i.e., DRIPs);

(2) Scheduled transactions made through the use of an automatic investment plan (pre-clearance is required when a Covered Security is added or modified);

(3) Enrollment and scheduled transactions made through an Employer Stock Purchase Plan or Employee Stock Ownership Program;

(4) Non-volitional actions that occurred without the input of the Covered Person (e.g., option expiration, called bond, converted Covered Security, etc.).

(h) Prohibited Transactions. Covered Persons are prohibited from executing the following transactions:

(1) A transaction that would constitute insider trading under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder or that would violate any other state or federal law.

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(2) A transaction based on confidential information that a Covered Person Employee learns by virtue of his or her employment with CalPERS, position on the Board, or relationship with a Covered Person Employee.

(3) A transaction that is executed on a Covered Security while taking advantage of knowledge of a pending CalPERS order in the same Covered Security, thereby trading "in front of" CalPERS (front-running).

(4) A transaction that is effected through an account other than a Covered Account in order to circumvent the requirements of or prohibitions contained in this section.

(5) Derivatives of any kind (and any other instrument or device) used to avoid the requirements or prohibitions contained in this section.

(i) Reconsideration of Pre-Clearance Denials.

(1) If a request for a Pre-Clearance Approval under subdivision (c)(1) is denied, a Covered Person Employee or Board Member may submit a request for reconsideration through the On-Line Platform. Pre-Clearance Approval shall only be denied for violating one or more trading restrictions set forth in subdivisions (d), (e), (f), or (h) of this section. A reconsideration request must be submitted for each violation and all reconsiderations must be approved prior to placing the trade. A Covered Person Employee or Board Member will receive notification by close of business the next CalPERS business day as to whether the proposed trade is approved or denied. Denials shall indicate the reason(s) for the denial. In addition, the Covered Person Employee or Board Member must provide the following information:

(A) For denials based on a violation of the Blackout Period, the Covered Person Employee or Board Member must provide a certification that the Covered Person had no knowledge at the time the Covered Person requested Pre-Clearance Approval that CalPERS had traded or would trade the same or equivalent Covered Securities during the Blackout Period. All such requests will require review from the Division of Enterprise Compliance. The Division of Enterprise Compliance will respond to the request by close of business the next CalPERS business day.

(B) For denials based on a violation of the Holding Period, the Covered Person Employee or Board Member must provide the reason(s) why the Covered Person believes an exception to the Holding Period requirement should be approved. The On-Line Platform will allow a Covered Person Employee or Board Member to request reconsideration of his/her transaction for any of the following reasons: (1) strong price movement in a Covered Security, (2) public announcements relating to the Covered Security, or (3) a Covered Person's unexpected personal financial hardship. Requests for reconsideration based on any other reason will require review from the Division of Enterprise Compliance. The Division of Enterprise Compliance will provide final approval or denial of reconsideration requests by close of business the next CalPERS business day after receipt of the request.

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(C) For denials based on Covered Securities being included on the Restricted List, the Covered Person Employee or Board Member must provide the reason(s) why the Covered Person believes an exception should be approved. All such requests will require review from the Division of Enterprise Compliance. The Division of Enterprise Compliance; will respond to the request by close of business the next CalPERS business day.

(2) If a request for a Pre-Clearance Approval under subdivision (c)(2) is denied, the Covered Person Employee or Board Member may submit a request for reconsideration through the On-Line Platform. The Covered Person Employee or Board Member must provide the reason(s) why the Covered Person believes an exception should be approved. The On-Line Platform will forward the document to the Division of Enterprise Compliance for review. The Covered Person Employee or Board Member will receive notification by close of business the next CalPERS business day as to whether the proposed trade is approved or denied.

(3) If the request for reconsideration is denied under subdivision (i)(1)(A) or (B), the Covered Person may request further reconsideration of the decision by the General Counsel who will approve or deny the request. Requests for reconsideration of denials under subdivision (i)(1)(C) require joint approval of the request by the General Counsel and the Chief Operating Investment Officer. The General Counsel and Chief Operating Investment Officer may delegate the authority to make these decisions to their subordinates.

(4) All requests for reconsideration will be examined on a case by case basis after evaluation of all surrounding facts and circumstances, including without limitation, a Covered Person's unexpected financial hardships and market conditions (e.g., a declining market, public announcements about a Covered Security).

(j) Reporting.

(1) Covered Person Employees and Board Members must disclose all Covered Accounts and Managed Accounts to the Division of Enterprise Compliance through the On-Line Platform. If a Covered Person is not certain as to whether an account is a Covered Account or Managed Account, it is his or her responsibility to seek, and comply with the direction given by the Division of Enterprise Compliance.

(2) For Managed Accounts, the Covered Person Employee or Board Member is required to provide a copy of a Managed Account Certification, signed by the investment advisor who manages the account, to the Division of Enterprise Compliance within 30 calendar days of disclosing the account.

(3) A Covered Person Employee must disclose his or her Covered Accounts and Managed Accounts and the Covered Accounts and Managed Accounts of his or her spouse or registered domestic partner within 30 calendar days of (i) the commencement of a Covered Person Employee's employment as a Covered Person, or (ii) the effective date of this section, whichever is later. A

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Board Member must disclose his or her Covered Accounts and Managed Accounts and the Covered Accounts and Managed Accounts of his or her spouse or registered domestic partner within 30 calendar days of (i) the date the Board Member assumes office, or (ii) the effective date of this section, whichever is later. In addition, a Covered Person Employee or Board Member is required to update the On-Line Platform within 30 calendar days after new accounts are opened or if existing accounts are closed or transferred.

(4) Covered Person Employees and Board Members are required to attest annually through the On-Line Platform, and within 30 calendar days after the first day of each new calendar quarter that all of their Covered Accounts and Managed Accounts and the Covered Accounts and Managed Accounts of their respective spouses or registered domestic partners have been disclosed as required by this section. For Covered Accounts from brokers or broker-dealers that do not provide account activity information electronically to the On-Line Platform, Covered Person Employees and Board Members must report all purchases, sales and transfers of Covered Securities on a quarterly basis, within 30 calendar days after the first day of each new calendar quarter. This report will also include Covered Securities donated or transferred to, or received from, another party.

(k) Acknowledgment of Section. Within 30 calendar days of the later of (1) commencement of employment as a Covered Person (in the case of a Covered Person Employee) or the date of assuming office (in the case of a Board Member) or (2) the effective date of this section, and on April 1 of every subsequent calendar year, Covered Person Employees and Board Members must review, acknowledge and affirm through the On-Line Platform that they have read and understand this section.

(*l*) Violations. In the event of any alleged violation of this section 558.1, the Division of Enterprise Compliance shall conduct an investigation, which will include notification of the Covered Person Employee's direct supervisor. Violations will be treated in accordance with Government Code 19990, including but not limited to, Government Code section 19572.

NOTE: Authority cited: Sections 20120 and 20121, Government Code. Reference: Cal. Const., art. XVI, section 17; and Section 19990, Government Code.

HISTORY:
1. New section filed 11-29-2012; operative 12-1-2012 pursuant to Government Code section 11343.4(c) (Register 2012, No. 48).

§ 559. Disclosure of Placement Agent Fees, Gifts and Campaign Contributions.

(a) Definitions:

(1) Amendment. Amendment means any modification to an agreement with an External Manager (including by a vote, consent, or waiver by the limited partners/investors or a subset of the limited partners/investors, or separate side

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agreement or amendment to a side agreement) to continue, terminate, or extend the term of the agreement or the investment period, increase the commitment of funds by CalPERS, or increase or accelerate the fees or compensation payable to the External Manager.

(2) CalPERS Vehicle. CalPERS Vehicle means a corporation, partnership, limited partnership, limited liability company, association or other entity either domestic or foreign, constituting or managed by an External Manager in which CalPERS is the majority investor and that is organized in order to invest with, or retain the investment manager services of other, External Managers, i.e., a fund of funds.

(3) CalPERS Vehicle Manager. CalPERS Vehicle Manager means the general partner, managing member, or investment manager of a CalPERS Vehicle.

(4) Consultant. Consultant means an individual or firm, and includes an individual designated in a CalPERS contract as a key personnel of a Consultant firm who is contractually retained or has been appointed to a pool by CalPERS to provide investment advice to CalPERS but who do not exercise investment discretion.

(5) External Manager. External Manager means either of the following:

(A) A Person who is seeking to be, or is, retained by CalPERS or by a CalPERS Vehicle to manage a portfolio of securities or other assets for compensation, or

(B) A Person who manages an Investment Fund and who offers or sells, or has offered or sold an ownership interest in the Investment fund to CalPERS or a CalPERS Vehicle.

The External Manager usually has full discretion to manage CalPERS assets, consistent with investment management guidelines provided by CalPERS and fiduciary responsibility. A CalPERS Vehicle Manager is an External Manager.

(6) Investment Fund. Investment fund means a private equity fund, public equity fund, venture capital fund, hedge fund, fixed income fund, real estate fund, infrastructure fund, or similar pooled investment entity that is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, owning, holding, or trading securities or other assets. Notwithstanding the above, an investment company that is registered with the Securities and Exchange Commission pursuant to the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) and that makes a public offering of its securities is not an investment fund.

(7) Person. Person means an individual, corporation, partnership, limited partnership, limited liability company, association or other entity (whether domestic or foreign).

(8) Placement Agent. Placement Agent means any Person directly or indirectly hired, engaged, retained by, or serving for the benefit of or on behalf

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of an External Manager or an Investment Fund managed by an External Manager, and who acts or acted for compensation as a finder, solicitor, marketer, consultant, broker or other intermediary in connection with the offer or sale to CalPERS or a CalPERS Vehicle either of the following:

(A) In the case of an External Manager within the meaning of section (a)(5)(A), the investment management services of the External Manager, or

(B) In the case of an External Manager within the meaning of section (a)(5)(B), an ownership interest in an investment fund managed by the external manager.

Notwithstanding the above, a Placement Agent shall not include any individual who is an employee, officer, director, equity holder, partner, member, or trustee of an External Manager who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested or held by the External Manager.

(9) Placement Agent Information Disclosure. Placement Agent Information Disclosure is defined in subsection (b)(1).

(b) Each External Manager and CalPERS Vehicle Manager is responsible for providing:

(1) The following information (collectively, the "Placement Agent Information Disclosure") to CalPERS staff or, if applicable, to the CalPERS Vehicle Manager within 45 days of the time investment discussions are initiated by the External Manager or the CalPERS Vehicle Manager, but in any event, prior to the completion of due diligence. For proposed and new investments, the Placement Agent Information Disclosure shall be provided by utilizing the "CalPERS Placement Agent Information Disclosure Form — Proposed and New Investment Agreements" revised August 12, 2010 and incorporated herein by reference. For Amendments to existing investments, the Placement Agent Information Disclosure is required prior to execution of the Amendment and shall be provided by utilizing the "CalPERS Placement Agent Information Disclosure Form — Amendments" revised August 12, 2010 and incorporated herein by reference.

(A) A statement whether the External Manager, or any of their principals, employees, agents or affiliates has compensated or agreed to compensate, directly or indirectly, any Person (whether or not employed by the External Manager or the CalPERS Vehicle Manager) to act as a Placement Agent in connection with the offer of assets, securities, or services to CalPERS or a CalPERS Vehicle.

(B) The name and relationship for each Placement Agent in connection with the investment by CalPERS, and attach a resume for each Placement Agent detailing the person's education, professional designations, regulatory licenses and investment and work experience. If any such Person is a current or former CalPERS Board member, employee or Consultant or a member of the immediate family of any such person, such information shall be specifically noted. When an

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entity is retained as a Placement Agent, any officer, director, or employee actively providing placement agent services with regard to CalPERS or receiving more than 15% of the placement agent fees shall provide information required by this subsection.

(C) A written copy of any and all agreements between the External Manager and the Placement Agent related to the assets, securities or services offered to CalPERS.

(D) A description of any and all compensation of any kind provided or agreed to be provided to a Placement Agent related to the assets, securities, or services offered to CalPERS, including the nature, timing and value thereof.

(E) A description of the services to be performed by the Placement Agent and a statement as to whether the Placement Agent is utilized by the External Manager for all prospective clients or only with a subset of the External Manager's prospective clients.

(F) The names of any current or former CalPERS Board members, employees, or Consultants who suggested or otherwise assisted in the retention of the Placement Agent.

(G) A statement that the Placement Agent is registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority or the Commodity Futures Trading Commission, and the details of such registration. If, however, the Placement Agent is located and operating outside of the United States and interacts exclusively with CalPERS Vehicles formed and operating outside of the United States, the statement may indicate that the Placement Agent (or any of its affiliates as applicable) is registered with a recognized non-U.S. financial regulatory authority and the details of such non-U.S. registration.

(H) A statement whether the Placement Agent, or any of its affiliates, is registered as a lobbyist with any state or national government.

(2) An update of any changes to any of the information included in the Placement Agent Information Disclosure within 14 calendar days of the date that the External Manager knew or should have known of the change in information.

(3) Representation and warranty as to the continuing accuracy of the information included in the Placement Agent Information Disclosure in any final written agreement with a continuing obligation to update any such information within 14 calendar days of the date that the External Manager knew or reasonably should have known of any material change in the information. A CalPERS Vehicle Manager does not need to represent and warrant as to the accuracy of information provided to them by an External Manager with whom the CalPERS Vehicle invests.

(c) Each Placement Agent shall, prior to acting as a Placement Agent, disclose to CalPERS (1) all campaign contributions made by the Placement Agent to any CalPERS Board Member or person(s) who has the authority to appoint a person to the CalPERS Board during the prior 24-month period and (2) all gifts, as defined in Government Code section 82028, given by the Placement

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Agent to any CalPERS Board Member or person(s) who has the authority to appoint a person to the CalPERS Board during the prior 24-month period. Additionally, any subsequent campaign contribution or gift made by the Placement Agent to any CalPERS Board Member or person(s) who has the authority to appoint a person to the CalPERS Board during the time the Placement Agent is receiving compensation in connection with a CalPERS investment shall also be disclosed.

(d) CalPERS staff and, except as specified below, CalPERS Vehicle Managers are responsible for all of the following:

(1) Providing External Managers with a copy of this regulation at the time that discussions are initiated with respect to a prospective investment or engagement.

(2) Confirming that the Placement Agent Information Disclosure has been received within 45 days of the time investment discussions are initiated, but in any event, prior to the completion of due diligence and any recommendation to proceed with the contract or Amendment.

(3) For new contracts and Amendments, declining the opportunity to retain or invest with the External Manager if the Placement Agent Information Disclosure reveals that the External Manager has used a Placement Agent that is not registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority or, if appropriate, the Commodity Futures Trading Commission. Notwithstanding the above, CalPERS Vehicle Managers may invest in External Managers where the Placement Agent is registered with a recognized non-U.S. financial regulatory authority consistent with subsection (b).1.g.

(4) For new contracts and Amendments, securing the agreement of the External Manager in the final written agreement between CalPERS or the CalPERS Vehicle and the External Manager to provide CalPERS or the CalPERS Vehicle the following remedies in the event the External Manager or CalPERS Vehicle Manager knew or should have known of any material omission or inaccuracy in the Placement Agent Information Disclosure or any other violation of this section:

(A) Whichever is greater, the reimbursement of any management or advisory fees paid for the prior two years or an amount equal to the amounts paid or promised to be paid to the Placement Agent as a result of the CalPERS or CalPERS Vehicle investment or engagement; and

(B) At CalPERS or the CalPERS Vehicle's option, as appropriate, and without any default, penalty or liability on the part of CalPERS or the CalPERS Vehicle to the External Manager, the authority to terminate immediately the investment management contract or other agreement with the External Manager, to withdraw without default, penalty or liability on the part of CalPERS or the CalPERS Vehicle from the limited partnership, limited liability company or other investment vehicle, or alternatively at CalPERS or the CalPERS Vehicle's discretion to cease making further capital contributions (and paying any fees on

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these recalled commitments) to the limited partnership, limited liability company or other investment vehicle without penalty; provided, however, that notwithstanding the foregoing, CalPERS or the CalPERS Vehicle shall pay when due all obligations due to a third party lender with respect to commitment debt secured by CalPERS or the CalPERS Vehicle's unfunded commitment.

(5) For new contracts and Amendments, confirming that the final written agreement between CalPERS or the CalPERS Vehicle and the External Manager provides that the External Manager shall be solely responsible for, and CalPERS or a CalPERS Vehicle shall not pay (directly or indirectly), any fees, compensation or expenses for any Placement Agent used by the External Manager.

(6) Rejecting any External Manager or Placement Agent's solicitation for any new offer of assets, securities, or services for five years after they have committed a violation of this section unless the Investment Committee reduces the penalty in an open session upon a showing that the violation was immaterial, unintentional, and that a reduction of the penalty is consistent with the fiduciary responsibilities of the Investment Committee as described in Article XVI, section 17 of the California Constitution.

(7) Providing copies of the Placement Agent Information Disclosure to the CalPERS Senior Investment Officer for the asset class for which the External Manager performs investment services, the CalPERS Chief Investment Officer, the CalPERS Chief Executive Officer, the CalPERS Chief of the Office of Enterprise Compliance and CalPERS' General Counsel. The CalPERS Vehicle Manager shall only be responsible for providing a copy of the Placement Agent Information Disclosure to CalPERS staff.

(8) Providing the Investment Committee with a copy of the Placement Agent Information Disclosure whenever the Investment Committee makes or approves the decision to invest with the External Manager. This obligation does not apply to the CalPERS Vehicle Manager.

(9) Compiling a monthly report containing the names and amounts of compensation agreed to be provided to each Placement Agent by each External Manager as reported in the Placement Agent Information Disclosures, providing the report to the Investment Committee, and disclosing the report to the public by posting it to the CalPERS website. The CalPERS Vehicle shall only be responsible for providing this information to CalPERS staff. The report will also include campaign contributions and gifts to CalPERS Board Members reported by Placement Agents. Notwithstanding the above, CalPERS staff may provide the required disclosure confidentially to the Investment Committee if disclosure involves a proposed investment and public disclosure will impair CalPERS' ability to maximize its investment returns. In such cases, disclosure will be made at the first open meeting of the Investment Committee that is held after the final decision is made whether to invest with the External Manager. The disclosure will include a detailed explanation why the disclosure was originally made confidential.

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(10) Reporting to the Investment Committee at least quarterly any material violations of this section. The CalPERS Vehicle shall only be responsible for providing this report to CalPERS staff.

(e) External Managers and Placement Agents shall comply with this section and cooperate with CalPERS staff in meeting CalPERS staff's obligations under this section.

(f) CalPERS staff is responsible for implementing this section for CalPERS Vehicles by seeking the written agreement of CalPERS Vehicle Managers to comply with this section. If any such CalPERS Vehicle does not agree in writing to comply with this section, CalPERS staff shall report to the Investment Committee the refusal.

(g) All parties responsible for implementing, monitoring and complying with this regulation should consider the spirit as well as the literal expression of its provisions. In cases where there is uncertainty whether a disclosure should be made, this regulation shall be interpreted to require disclosure.

(h) Only the Investment Committee can grant exceptions to this regulation, except that the CalPERS Chief Investment Officer can agree to an exception for an Amendment, where the decision cannot be delayed until the next Investment Committee meeting. Any exceptions agreed to by the Chief Investment Officer shall be reported out to the public and the Investment Committee within 60 days. The Investment Committee and Chief Investment Officer shall only provide exceptions that are consistent with their fiduciary responsibilities as described in Article XVI, section 17 of the California Constitution, and provided further that all such exceptions are fully disclosed to the public.

(i) The Placement Agent Information Disclosure and their attachments shall be public records subject to disclosure under the California Public Records Act except as provided in subsection (d)(9). No confidentiality restrictions shall be placed by the External Manager or the Placement Agent on any information provided pursuant to this section.

NOTE: Authority cited: Sections 7513.85(a), 20120 and 20121, Government Code. Reference: Sections 7513.8, 7513.85 and 7513.9, Government Code.

HISTORY:

1. New section filed 1-28-2011; operative 1-28-2011 pursuant to Government Code section 11343.4 (Register 2011, No. 4).
2. Change without regulatory effect amending subsection (a)(5), adding subsections (a)(5)(A)-(B) and (a)(6), renumbering subsections, amending newly designated subsection (a)(8) and adding subsections (a)(8)(A)-(B) filed 11-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 47).

§ 559.1. Required Contract-Related Disclosures.

(a) Definitions.

For the purposes of this Section:

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(1) *Agent*. Agent means any Person hired, engaged, retained by, or serving for the benefit of or on behalf of a Proposer or Contractor, who acts or acted for compensation as a finder, solicitor, marketer, lobbyist, consultant, broker, representative, agent or other intermediary to assist, directly or indirectly, in preparing a Proposal to CalPERS or in securing a Contract with CalPERS.

(2) *Board Member*. Board Member means a current or former member of the CalPERS Board of Administration.

(3) *Contract.* Contract means an agreement between CalPERS and any Person to provide CalPERS goods and/or services. Contract includes new contracts and amendments to existing contracts (including contract extensions), letters of engagement, consulting purchase orders and similar agreements.

(4) *Contractor.* Contractor means any Person providing services to CalPERS pursuant to a Contract.

(5) *Contract-Related Disclosure Form*. Contract-Related Disclosure Form means the document provided by a Proposer or Contractor to CalPERS as required in subdivision (b) hereof.

(6) *Familial Relationship.* Familial Relationship means a relationship by blood, marriage, registration of domestic partnership or adoption.

(7) *Person.* Person means an individual, corporation, partnership, limited partnership, limited liability company, association or other entity (whether domestic or foreign).

(8) *Proposal.* Proposal means any Person's written response to a Solicitation.

(9) *Proposer*. Proposer means any Person who provides a Proposal in response to a Solicitation.

(10) *Solicitation*. Solicitation means any process by which CalPERS seeks to procure a Person to provide goods and/or services to CalPERS, including without limitation Requests for Proposal and Invitations to Bid, regardless of amount.

(11) *Staff Member*. Staff Member means anyone employed at CalPERS within the five (5) years preceding the date the Contract-Related Disclosure Form is due.

(12) *Things of Value*. Things of Value include, but are not limited to, payments, gifts, loans, cash, meals, travel, awards, campaign contributions, charitable donations, and/or reimbursements. Things of Value do not include:

(A) Informational material such as books, reports, pamphlets, calendars, or periodicals within the meaning of Government Code section 82028, subdivision (e).

(B) Items that CalPERS determines are negligible in light of their amount, nature, purpose, or timing.

(C) Free admission, and refreshments and similar non-cash nominal benefits provided to any Board Member or Staff Member for giving a speech, participating on a panel or making a substantive formal presentation at a seminar

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or similar event, where the speech, participation or presentation is for official CalPERS business and the member is representing CalPERS in the course and scope of his or her official duties.

(b) Each Proposer or Contractor shall submit to CalPERS a Contract-Related Disclosure Form, signed by an individual authorized to bind the Proposer or Contractor and containing the information listed in (1) and (2) below. For Proposals, the Contract-Related Disclosure Form is due no later than the final filing date for the Solicitation. For Contract amendments, engagements, purchase orders, and any Contracts for which a Contract-Related Disclosure Form was not submitted within one (1) year preceding the execution of the Contract, the Contract-Related Disclosure Form is due no later than the date of execution. The Contract-Related Disclosure Form is required for Contracts where the total amount is $10,000 or more, and for all Proposals and Contracts that are the result of an Invitation to Bid or a Request for Proposal, regardless of amount. The Contract-Related Disclosure Form is not required when a Placement Agent Information Disclosure is required by Section 559.

(1) The name of every Agent and the following information for each identified Agent:

(A) A copy of all contracts, agreements, and other documents memorializing the relationship between the Proposer or Contractor and the Agent.

(B) A description of any financial or Familial Relationship(s) between the Agent and a Board Member or Staff Member, including the name(s) of the Board Member(s) and the Staff Member(s).

(C) Any Things of Value given or offered by the Agent to a Board Member or Staff Member during the twelve (12) months preceding the date the Contract-Related Disclosure Form is due.

(2) Any Things of Value given or offered by the Proposer or Contractor to a Board Member or Staff Member during the twelve (12) months preceding the date the Contract-Related Disclosure Form is due.

(3) If the Proposer or Contractor does not have any information requested in (1) or (2) above, the Proposer or Contractor will indicate this on the Contract-Related Disclosure Form.

(4) The Contract-Related Disclosure Form shall be provided by the System as follows:

CalPERS

CalPERS Contract-Related Disclosure Form
(To be used if Contractor is not required to file a
Placement Agent Information Disclosure Form (2 CCR § 559))

This form is to be used for all Contract-Related Disclosures, including Proposals.
Please refer to title 2 California Code Regulations section 559.1(b)(1) through (b)(3), prior to completing this form.

a. Solicitation or Contract Number:
_____

b. Proposer or Contractor Name:
_____

c. Name of Individual Authorized to bind the Proposer or Contractor:
_____

d. Contact Person (if different than above):
_____

e. E-mail Address:
_____

f. Phone No:
_____

g. Name of CalPERS Contact (if applicable):
_____

Have you, your firm or your firm's principals, employees, agents, or affiliates compensated or agreed to compensate, directly or indirectly, any Agent as defined in section 559.1(a)(1) (whether or not employed by you) or any entity to act as Agent in connection with this Solicitation or Contract? (§559.1(b)(1))

☐ Yes. ☐ No.

If you checked Yes, please respond to questions 1 through 5 below, and sign and date the Form on the final page.

If you checked No, please respond to question 5 below, and sign and date this Form on the final page.

1. Please list the names and relationships for each Agent in connection with the CalPERS Solicitation or Contract, including a description of the

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relationship with the Proposer or Contractor. (Add an additional page if necessary.) Please check the box to the left if the Agent is a current or former CalPERS Board Member, Staff Member, consultant, or has a Familial Relationship with any such individual.

	Name	Relationship
☐		
☐		
☐		
☐		
☐		

2. Please attach a copy of all contracts, agreements, or other documents memorializing the relationship between the Proposer or Contractor and the Agent. When an *entity* is retained as an Agent, please also include the requested information for any officer, director, or employee actively providing Agent services with regard to CalPERS or receiving more than 15% of the Agent fees.

   _____

3. Provide a description of any financial or Familial Relationship(s) between the Agent and a Board Member or Staff Member, including the names of the Board Member(s) and/or Staff Members:

   _____

4. Describe any Things of Value given or offered by the Agent to a Board Member or Staff Member during the twelve (12) months preceding the date the Contract-Related Disclosure Form is due.

   _____

5. Describe any Things of Value given or offered by the Proposer or Contractor to a Board Member or Staff Member during the twelve (12) months preceding the date the Contract-Related Disclosure Form is due.

   _____

By executing this form the undersigned represents and warrants the information set forth herein is true and correct. The undersigned agrees to update this information within 14 calendar days of the date Proposer or Contractor knows or reasonably should have known of any defect or changes to this information.

The Contract-Related Disclosure Form and attachments shall be a public record subject to disclosure under the California Public Records Act. No confidentiality restrictions shall be placed on information submitted by the Proposer or Contractor.

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The undersigned represents and agrees it shall make a representation and warranty as to the continuing accuracy of this information in any final written agreement between it and CalPERS.

I, the official named below, acknowledge and declare I have read and understand CCR section 559.1, and that the above-named firm has provided information required by section 559.1 and this Form. I am duly authorized to make this declaration on behalf of the above-named firm, and declare the foregoing is true and correct as of the date of execution of this document. I further acknowledge my firm's responsibility to provide updates in the event this information is determined to be incorrect or has changed.

_____ _____
Authorized Signature Date

_____
Name and Title

Form #PERS01A0068

(c) If Proposer or Contractor determines at any time the information provided on the Contract-Related Disclosure Form is or has become inaccurate, untrue, incomplete or misleading, Proposer or Contractor shall notify CalPERS and provide an updated Contract-Related Disclosure Form within 14 calendar days of the date Proposer or Contractor knew or should have known of such defect or change in the information.

Regulations

(d) Failure of a Proposer or Contractor to submit a complete and accurate Contract-Related Disclosure Form pursuant to subdivision (b), or failure to timely update the Contract-Related Disclosure Form as described in subdivision (c) above:

(1) For Proposers, will result in the disqualification of the Proposer from participation in the Solicitation, if the Proposer knew or should have known the information existed as of the date the Contract-Related Disclosure Form was due.

(2) For Contractors, may result at CalPERS discretion, and without any default, penalty or liability by or on the part of CalPERS, in termination of the Contract if the Contractor knew or should have known the information existed as of the date the Contract-Related Disclosure Form was due.

(e) CalPERS will review the Contract-Related Disclosure Form, and will gather additional information as it deems necessary to make a reasonable and informed decision, and determine whether the information provided demonstrates, or contributes to the appearance of, a conflict of interest or improper influence in connection with the decision to award the Contract.

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(f) If CalPERS determines there is a conflict of interest or improper influence, or the appearance of a conflict of interest or improper influence, in connection with the decision to award the Contract, CalPERS may disqualify the Proposer or terminate the Contract, as applicable.

(g) The CalPERS General Counsel may exempt a Solicitation or Contract from requiring the Proposer or Contractor to submit the Contract-Related Disclosure Form when in his or her opinion it is necessary to meet the fiduciary requirements imposed on the System. The CalPERS General Counsel will report the exemption to the CalPERS Board of Administration.

(h) The submitted Contract-Related Disclosure Form and any attachments shall be public records under the California Public Records Act except as provided in subdivision (b)(1)(A) above, to the extent such documents or information are deemed proprietary or trade secret. No confidentiality restrictions shall be placed by the Proposer or Contractor on any information provided pursuant to this section.

NOTE: Authority cited: Government Code sections 20120 and 20121. Reference: Government Code sections 20151, 20152.5, 20153, 87100 and 87103.

HISTORY:
1. New section filed 5-8-2012; operative 5-8-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 19).

ARTICLE 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM — CONFLICT OF INTEREST CODE

§ 560. General Provisions.

The Political Reform Act (Government Code sections 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the California Public Employees' Retirement System ("CalPERS").

Designated employees, consultants, board members and candidates shall file their statements of economic interests with the CalPERS filing officer, who will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) With respect to certain employees and officials such as board members who are determined to manage public investments, within the meaning

of Government Code Section 87200, CalPERS shall make and retain copies and forward the originals to the Fair Political Practices Commission. All other statements will be retained by CalPERS. While public officials who manage investments are not required to be listed in this code, those officials are listed at the end of this document for clarity. Unlike the designated positions, these officials' reporting obligations are not limited by reference to a reporting category.

CONFLICT OF INTEREST CODE FOR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

APPENDIX

Assigned Disclosure Designated Positions — *Category*

ACTUARIAL & EMPLOYER SERVICES BRANCH

ACTUARIAL OFFICE
- Chief Actuary 1
- Deputy Chief Actuary 2
- Associate Pension Actuary 2
- Senior Pension Actuary 2
- Supervising Pension Actuary 2
- Senior Life Actuary 2
- Staff Services Manager III 2

EMPLOYER SERVICES DIVISION
- Division Chief 1
- Staff Services Manager II (Supervising) 2
- Staff Services Manager III 2

ADMINISTRATIVE SERVICES BRANCH

FISCAL SERVICES DIVISION
- Division Chief 1
- Accounting Administrator (All) 2
- Staff Administrative Analyst (Accounting System) 2
- Staff Services Manager (All) 2

HUMAN RESOURCES DIVISION
- Division Chief 1
- Labor Relations Manager I 2
- Staff Services Manager II (Supervising) 2
- Staff Services Manager III 2

OPERATIONS SUPPORT SERVICES DIVISION
- Division Chief 1
- Staff Services Manager (All) 2

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STRATEGIC MANAGEMENT SERVICES DIVISION
Division Chief 1
DIVERSITY PROGRAM
Diversity Program Coordinator 2
Staff Counsel III (Spec) 1
ENTERPRISE PRIVACY AND PROTECTION
Privacy & Security Officer 2
Data Processing Manager III 2
EXECUTIVE OFFICE
Assistant Executive Officer (All) 1
Principal Advisor to Board President 2

EXTERNAL AFFAIRS

STAKEHOLDER RELATIONS
Staff Services Manager II (Supervising) 2
OFFICE OF GOVERNMENTAL AFFAIRS
Division Chief 1
PUBLIC AFFAIRS OFFICE
Division Chief 1
Staff Services Manager III 2

HEALTH BENEFITS BRANCH

OFFICE OF EMPLOYER & MEMBER HEALTH SERVICES
Division Chief 1
Associate Governmental Program Analyst 3
Nurse Consultant 3
Retirement Program Specialist II (Tech) 3
Retirement Program Specialist II (Supervisor) 3
Staff Services Manager I 3
Staff Services Manager II (Supervising) 3
Staff Services Manager III 2
OFFICE OF HEALTH PLAN ADMINISTRATION
Division Chief 1
Medical Consultant II 3
Nurse Consultant I 3
Pharmaceutical Consultant II 3
Research Analyst II 3
Research Program Specialist I 3
Staff Services Manager (All) 3
OFFICE OF HEALTH POLICY AND PROGRAM SUPPORT
Division Chief 1
Associate Governmental Program Analyst 3
Associate Information Systems Analyst 4

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Health Program Manager III 2
Research Analyst II 3
Research Manager II 2
Research Program Specialist I 3
Research Program Specialist II 3
Staff Services Manager (All) 1

DIVISION OF OPERATIONS AND INFRASTRUCTURE SUPPORT
Division Chief 1
Associate Governmental Program Analyst 3
Staff Services Manager I 2
Staff Services Manager II (Supervising) 2

INFORMATION TECHNOLOGY SERVICES BRANCH

COMET - PENSION SYSTEM RESUMPTION PROJECT
Division Chief 1
Business Deputy 2
Staff Services Manager II (Supervising) 4

ENTERPRISE TRANSITION MANAGEMENT
Division Chief 1

INFORMATION TECHNOLOGY ADMINISTRATIVE DIVISION
Data Processing Manager III 2
Data Processing Manager II 4

INNOVATION SERVICES AND IMPLEMENTATION DIVISION
Division Chief 1
Data Processing Manager II 4
Data Processing Manager III 4
Data Processing Manager IV 4
Senior Information System Analyst (Supervising) 4
System Software Specialist III (All) 4

PSR EMPLOYER READINESS PROJECT
Project Manager, PERT 2

TECHNOLOGY SERVICES AND SUPPORT DIVISION
Division Chief 1
Data Processing Manager II 4
Data Processing Manager III 4
Data Processing Manager IV 4
System Software Specialist III (All) 4

INVESTMENT OFFICE
Administrative Assistant I 2
Administrative Assistant II 2
Associate Governmental Program Analyst 2
Investment Officer (All) 2
Staff Services Manager I 2

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INVESTMENT POLICY AND BUSINESS SUPPORT
- Division Chief 1
- Associate Governmental Program Analyst 2
- Staff Services Manager (All) 2

AFFILIATE INVESTMENT PROGRAMS
- Associate Governmental Program Analyst 2
- Investment Officer (All) 2
- Retirement Program Specialist II (Tech) 2
- Staff Services Manager I 2
- Staff Services Manager II (Supervising) 2

LEGAL OFFICE
- Deputy General Counsel 1
- Assistant Chief Counsel 1
- Staff Counsel 1
- Staff Counsel III 1
- Staff Counsel IV 1

OFFICE OF AUDIT SERVICES
- Division Chief 1
- Associate Program Evaluator 2
- Program Evaluator Specialist 2
- Program Evaluator 2
- Senior Program Evaluator Specialist 2
- Senior Program Evaluator 2
- Staff Program Evaluator 2
- Staff Program Evaluator Specialist 2
- Staff Management Auditor 2
- Supervising Management Auditor 2

OFFICE OF ENTERPRISE COMPLIANCE
- Chief Compliance Officer 2
- Investment Officer I 2
- Staff Services Manager II (Supervising) 2

MEMBER AND BENEFIT SERVICES BRANCH

BENEFIT SERVICES DIVISION
- Division Chief 1
- Staff Services Manager III 2

CUSTOMER SERVICE AND EDUCATION DIVISION
- Division Chief 1
- Staff Services Manager III 2

MEMBER SERVICES DIVISION
- Division Chief 1
- Staff Services Manager II (Supervising)(JLRS) 2
- Staff Services Manager III 2

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OFFICE OF POLICY AND PROGRAM DEVELOPMENT
Division Chief 1
Staff Services Manager I 2
R STREET PROJECT
Division Chief 1
CONTRACTS FOR SERVICES
Consultants Who Do Not Manage Public Investments ..... *

* Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The General Counsel may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope, and thus, is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The General Counsel's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

APPENDIX B

DISCLOSURE CATEGORIES

Category 1

Designated individuals in Category 1 must report:

All investments and business positions in business entities, and income (including gifts, loans, and travel payments).

All interest in real estate located in whole or in part within the State of California.

Category 2

Designated individuals in Category 2 must report:

All investments and business positions in business entities, and income (including gifts, loans, and travel payments) from sources which are of the type (1) to contract with CalPERS, (2) in which funds administered by the Board may be invested (including securities, real estate and business entities), or (3) to act as finder, solicitor, marketer, consultant, broker, placement agent or other intermediary to a contract or investment referenced in (1) or (2) above.

All interest in real estate located in whole or in part within the State of California

Category 3

Designated individuals in Category 3 must report:

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All investments and business positions in business entities, and income (including gifts, loans, and travel payments) from sources which are of the type (1) to contract with CalPERS to provide health care services or (2) to act as a finder, solicitor, marketer, consultant, broker, placement agent or other intermediary to a contract referenced in (1).

Category 4

Designated individuals in Category 4 must report:

All investments and business positions in business entities, and income (including gifts, loans, and travel payments) from sources which are of the type (2) to sell, rent or lease information technology equipment, hardware, software, facilities, supplies or services to CalPERS or (2) to act as a finder, solicitor, marketer, consultant, broker, placement agent or other intermediary to any goods or services referenced in (1).

AGENCY POSITIONS THAT MANAGE PUBLIC INVESTMENT FOR PURPOSES OF SECTION 87200 OF THE GOVERNMENT CODE

It has been determined that individuals in the positions listed below are officials who manage public investments, within the meaning of Government Code section 87200, and will file the Form 700 Statement of Economic Interests:

Board Members
Chief Executive Officer
Deputy Executive Officer
General Counsel
Chief Investment Officer
Director of External Affairs
Senior Investment Officer (All)
Senior Portfolio Manager (All)
Chief Operating Investment Officer
Portfolio Manager (All)
Consultants Who Manage Public Investments

NOTE: Authority cited: Article XVI, Section 17, California Constitution; Sections 87200 et seq., 87300 and 87304, Government Code. Reference: Sections 87200 et seq. and 87300 et seq., Government Code.

HISTORY:

1. New article 3 (sections 560-560.9) filed 3-31-78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 2-9-78 (Register 78, No.13). For history of former article 3 (section 560), see Register 64, No.24.
2. Amendment of article 3 (sections 560-560.9) filed 9-26-79; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 8-8-79 (Register 79, No.39).
3. Repealer of article 3 (sections 506-560.9) and new article 3 (section 560 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No.9).
4. Amendment filed 5-11-90; operative 6-10-90. Approved by Fair Political Practices Commission 3-30-90 (Register 90, No. 25).

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5. Amendment of second paragraph and Appendix filed 2-10-95; operative 2-10-95. Submitted to OAL for printing only pursuant to Government Code section 11346.2 (Register 95, No. 6).
6. Amendment of section and Appendix filed 5-9-2000; operative 6-8-2000. Approved by Fair Political Practices Commission 3-10-2000 (Register 2000, No. 19).
7. Repealer and new section and Appendix filed 1-17-2006; operative 2-16-2006. Approved by Fair Political Practices Commission 11-7-2005 (Register 2006, No. 3).
8. Amendment of section and Appendices filed 3-2-2012; operative 4-1-2012. Approved by Fair Political Practices Commission 1-11-2012 (Register 2012, No. 9).

ARTICLE 3.5. MEMBER HOME LOAN PROGRAM

§ 561. Scope and Authority.

These regulations interpret and implement the Dave Elder Public Employees' Retirement System Member Home Loan Program authorized by Section 20200 of the Government Code. The regulations establish criteria and procedures for eligibility determination, loan origination, terms, servicing and termination.

NOTE: Authority cited: Section 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. New Article 3.5 (Sections 561-561.14) filed 5-18-81; effective thirtieth day thereafter (Register 81, No. 21).
2. Amendment of section and Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).
3. Amendment filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

§ 561.1. Program Criteria.

Loans issued pursuant to these regulations and loan modifications to loans fully owned by the System shall provide the greatest benefit to members and annuitants consistent with the Board's role as fiduciary for all members and annuitants, the sound investment of the retirement fund, and the financial integrity of the program.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).
2. Amendment filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

§ 561.2. Definitions.

"Annuitant" means a person who receives an allowance from the System.

"Board" means the Board of Administration of the System as set forth in Section 20021 of the Government Code.

"Correspondent" means a lending institution which meets the System's minimum standards for appointment for mortgage loan correspondents, which may be changed from time to time, and such lending institution has entered into

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a correspondent's agreement with the System which is still valid at the time of origination of the loan.

"Home" means a single-family dwelling, two-family dwelling, three-family dwelling, four-family dwelling, single-family cooperative apartment, and single-family condominium within the state which the borrower intends to make his or her permanent and principal residence. "Home" does not include duplexes or other multi-unit equity interests or living units forming a part of any commercial activity.

"Loan" means a loan secured by a first note and deed of trust on a home to a borrower pursuant to the provisions of these regulations.

"Member" means a person within the provisions of section 20200(b) of the Government Code.

"Officers" means members of the Board of Administration of the California Public Employees' Retirement System, and its designees.

"Principal residence" means the home that the borrower intends to occupy as permanent and principal residence for the term of the loan. It does not include a purchase for speculative, temporary, interim, or second home purposes.

"System" means the Public Employees' Retirement System, as set forth in section 20058 of the Government Code.

NOTE: Authority Cited: Sections 20120, 20121, 20200, and 20201, Government Code. Reference: Sections 20002, 20021, 20200, and 20201, Government Code.

HISTORY:
1. Amendment adding new definition of "Officers" and amendment of Note filed 6-20-2002; operative 7-20-2002 (Register 2002, No. 25).
2. Amendment of definitions of "Correspondent," "Currently employed member" and "Home" filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).
3. Amendment filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

§ 561.3. Eligibility for Loans.

At the time of origination, loans shall be available only to qualified members and annuitants for the purchase or refinancing of homes in accordance with the provisions of these regulations.

A member or annuitant shall not be eligible for a second loan under this program while a loan which he or she originated remains outstanding.

Effective January 1, 2002, "officers" as defined herein (Sec. 561.2) shall not be eligible for a home loan under the Member Home Loan Program.

NOTE: Authority cited: Section 20120, 20121, 20200, and 20201, Government Code. Reference: Sections 2002, 20021, 20200, and 20201 Government Code.

HISTORY:
1. Amendment filed 10-29-92; operative 11-30-92 (Register 92, No. 44).
2. Amendment adding third paragraph and amendment of Note filed 6-20-2002; operative 7-20-20002 (Register 2002, No. 25).
3. Amendment filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

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§ 561.4. Loan Standards.

To the extent that they are not in conflict with the provisions of these regulations, loan standards shall be as defined in the Board's "Minimum Standards of Acceptability for Conventional Single-Family Real Estate Mortgage Loans and FHA-VA Loans" as they exist on the effective date of these regulations, and as they may be formally changed from time to time.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).

§ 561.5. Rates.

Loans shall carry interest rates which shall be set consistent with market rates.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).
2. Amendment filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

§ 561.6. Proof of Occupancy.

Borrowers shall certify in their loan application that they intend to occupy the home as their principal residence. Borrowers shall notify the correspondent servicing the loan immediately when they cease to occupy the home as their principal residence.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).

§ 561.7. Failure to Comply with Certification and Notice Requirement.

Failure to comply with the provisions of Section 561.6 within ten days may cause the outstanding balance of the loan to become immediately due and payable.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).

§ 561.8. Amount of Loan and Mortgage Insurance.

At the time the loan is originated, the amount of the loan shall provide a loan to value ratio of a maximum of 100 percent for the first loan for a single-family dwelling, single-family cooperative apartment, or single-family

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condominium; 95 percent for the first loan on a two-family dwelling; and 90 percent for the first loan on a three-family dwelling or four-family dwelling. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to the provisions of 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.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of section and Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).

§ 561.9. Term of Loan.

The maximum term for any loan shall be 360 months.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Editorial correction of Reference cite (Register 95, No. 5).
2. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).

§ 561.10. Originating and Servicing of Loans.

Subject to the Housing Financial Discrimination Act of 1977 and other applicable law, correspondents, when approved by the System, shall originate and service loans pursuant to the correspondent's agreement with the System.

NOTE: Authority cited: Section 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).
2. Repealer of section 561.10 and renumbering of former section 561.11 to new section 561.10, including amendment of section heading and section, filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

§ 561.11. Commitments.

The Board shall not be obligated to purchase a loan from an originating correspondent unless all of the requirements for such purchase have been met and the Board has executed a commitment to purchase such loan

NOTE: Authority cited: Section 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).

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2. Renumbering of former section 561.11 to new section 561.10 and renumbering of former section 561.12 to new section 561.11 filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

§ 561.12. Purchase Price.

With respect to all loans for which the Board has executed a commitment, the purchase price shall not exceed that amount set forth in the System's commitment.

NOTE: Authority cited: Sections 20120 and 20200, Government Code. Reference: Section 20200, Government Code.

HISTORY:
1. Amendment of Note filed 11-18-2004; operative 12-18-2004 (Register 2004, No. 47).
2. Renumbering of former section 561.12 to new section 561.11 and renumbering of former section 561.13 to new section 561.12 filed 12-21-2010; operative 1-20-2011 (Register 2010, No. 52).

ARTICLE 4. CONTRACTS

§ 565. Payment of Contributions.

Member and employer contributions shall be received in the System's Sacramento office on or before 15 calendar days following the last day of the pay period to which they refer.

NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 20532, 20536, 20537, 20572, and 20615, Government Code.

HISTORY:
1. New section filed 4-30-76; designated effective 7-1-76 (Register 76, No. 18).
2. Amendment filed 8-7-86; effective thirtieth day thereafter (Register 86, No. 32).
3. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 565.1. Submission of Payroll and Contribution Information.

(a) The employer shall submit payroll and contribution information using the CalPERS reporting system or in a manner as otherwise prescribed by the Board.

(b) Payroll and contribution information for each pay period shall be submitted on or before 30 calendar days following the last day of the pay period to which it refers.

(c) CalPERS shall notify the employer of payroll and contribution information reporting errors. The employer shall correct such errors within 60 calendar days of the date of the notice from CalPERS.

NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 20532, 20572 and 20615, Government Code.

HISTORY:
1. New section filed 4-30-76; designated effective 7-1-76 (Register 76, No. 18).

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2. Amendment of section heading, section and Note filed 4-30-2012; operative 5-30-2012 (Register 2012, No. 18).

§ 565.2. Interest on Insufficient Contributions.

(a) If within a fiscal year an employer fails to pay at least 90% of the member and employer contributions due within the prescribed time set forth in Section 565, CalPERS may bill the employer for the total amount then due. If an employer fails to pay the billed amount within 30 calendar days of the bill, interest shall be charged upon the amount due from the original due date until received by CalPERS.

(b) If an employer fails to pay at least 99% of the member and employer contributions due at fiscal year end, CalPERS shall bill the employer for the total amount then due. If an employer fails to pay the billed amount within 30 calendar days of the date of the bill, interest shall be charged upon the amount due from the original due date until received by CalPERS.

(c) Interest shall be charged as set forth in Government Code section 20537.

NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 20532, 20537, 20572 and 20615, Government Code.

HISTORY:
1. New section filed 4-30-76; designated effective 7-1-76 (Register 76, No. 18).
2. Amendment filed 8-7-86; effective thirtieth day thereafter (Register 86, No. 32).
3. Amendment of section heading, section and Note filed 4-30-2012; operative 5-30-2012 (Register 2012, No. 18).

§ 565.3. Cost Assessment for Incomplete or Erroneous Payroll and Contribution Information.

(a) If an employer fails to file complete or correct payroll and contribution information as required by these regulations within the time period set forth, an assessment to recover the cost of follow-up and special accounting of $200.00 for each report may be made. The assessment shall be made monthly until the posted payroll and contribution information is complete and correct.

(b) If, in the opinion of the Executive Officer, such assessment is insufficient to meet the added costs because of special circumstances, he or she shall estimate such costs and make an appropriate supplemental assessment.

NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 20532, 20536, 20572 and 20615, Government Code.

HISTORY:
1. New section filed 4-30-76; designated effective 7-1-76 (Register 76, No. 18).
2. Amendment filed 8-7-86; effective thirtieth day thereafter (Register 86, No. 32).
3. Amendment of section heading, section and Note filed 4-30-2012; operative 5-30-2012 (Register 2012, No. 18).

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§ 565.4. Time Extension.

(a) A reasonable extension of time for filing payroll reports and payment of contributions may be granted by the Executive Officer, or the alternates whom he may designate, whenever in his judgment good cause exists.

(b) This extension, at the discretion of the Executive Officer or his designated alternate, may be granted for one specific report or blanket authority over a specific time span.

(c) Requests for time extensions must be received in the Sacramento office of the System not later than 10 days prior to the due date of the reports and contributions for which the extension is being requested.

(d) Waiver of Assessments. The Executive Officer, or his designated alternate, is empowered to waive assessments of interest or penalties if in his judgment reports of member and employer contributions and payment of such contributions become delinquent as a result of conditions beyond control of the employer.

(e) Audit Discrepancies. Contributions determined to be payable as a result of audits performed by the System are not subject to this Article.

NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 20532, 20536, 20537, 20572 and 20615, Government Code.

HISTORY:
1. New section filed 4-30-76; designated effective 7-1-76 (Register 76, No. 18).
2. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 565.5. Method for Collecting Administrative Costs.

(a) Notice of the amount of any fee for service (including fee for preparation of an actuarial valuation), or cost assessment for incomplete or erroneous payroll and contribution reporting (including late enrollment) shall be provided to the employer through the employer's preferred communication method or, if no preference has been selected, by mail.

(b) An employer shall promptly pay the amount due, or shall notify the board if the employer disputes the amount due.

(c) Failure of an employer to pay or dispute the amount due within 30 days of the date of the notice shall be deemed to be agreement as to the amount due and consent for the Board to deduct the amount shown in the notice from the employer's reserve account, or to demand payment from the employer.

(d) If an employer notifies the Board of a dispute for the amount within 30 days of the date of the notice, the Board will not deduct the amount from the employer's account until the dispute is resolved and further notice is given.

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 20283, 20535, 20536, 20572 and 20615, Government Code.

HISTORY:
1. New section filed 4-30-2012; operative 5-30-2012 (Register 2012, No. 18).

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§ 566. Contract Amendments.

A contract amendment, or that portion thereof which requires an adjustment in the amount of monthly benefit payments which were paid or payable prior to such contract amendment, shall become operative on the first day of the month next following a period of 30 days after receipt of final documentation of the adoption of such amendment by the Board, in its Sacramento office.

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 20460, 20460.1, 20474, and 20475 Government Code.

HISTORY:
1. New section filed 5-8-79; effective thirtieth day thereafter (Register 79, No. 19).
2. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 566.1. Employer-Paid Member Contributions (EPMC) Conversions.

(a) A contracting agency or school employer may report the value of all or part of the normal contributions required to be paid by a member, for an individual or "group or class" of employees.

A contracting agency may also, by contract amendment(s), convert Employer-Paid Member Contributions (EPMC) to compensation earnable for a group or class of employees, only during the period of final compensation. A school employer may also, by contract amendment(s), convert EPMC to compensation earnable if all districts under the County Office of Education pass Resolutions for same.

Either provision: (1) reporting the value of EPMC as compensation; or (2) converting EPMC to compensation earnable, can only be provided to an individual if the most closely related group also has the same EPMC provision.

The contract amendment(s) to convert, must conform with the following standards as well as other applicable provisions of law:

(1) The period of final compensation must be the 12 months or 36 months immediately preceding the effective date of retirement.

(2) The provision must be fully funded for the group or class of employees, based on PERS' actuarial assumptions with the right of review set forth in subsection (b).

(3) The provision must conform to federal Internal Revenue Code standards for "qualified plan status" of the System in Section 401(a), including "non-discrimination testing".

(4) The provision must be contained in applicable current written labor agreements as well as in adopted resolutions.

(5) The conversion of EPMC to compensation earnable is an increase in payrate for all purposes.

(6) If an employee does not provide 12 months or 36 months notice of retirement, the employer shall make necessary corrections to the payrate and report adjustments to PERS.

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(7) If an employee cancels his/her retirement date, this provision shall be applied to his/her new final compensation period.

(b) A contracting agency, school employer or recognized employee organization may request a review by PERS of the additional employer contributions required to fund the contract amendment provision to convert EPMC described in subsection (a). The request must comply with the following procedures:

(1) PERS will provide written notice of the rate increase to the employer by certified mail. The employer will send a copy of PERS' written notice within ten days of its receipt to all affected employee organizations, by certified mail.

(2) The request must be submitted in writing to PERS within 30 days of the date of certified receipt of the rate increase. The request should be addressed and submitted to the; Actuarial Office, Public Employees' Retirement System, P.O. Box 942709, Sacramento, California, 94229-2709.

(3) A request made by an employer must be accompanied by an ordinance or resolution adopted by the governing body stating the rationale and factual basis and a copy of the receipt of certified mail and proof of service that a written notice of the rate change was sent to specified employee organization(s). A request made by an employee group must be accompanied by a signed statement of an officer of the employee organization who is authorized to contractually bind the organization, setting forth the rationale and factual basis.

(4) The request must contain actuarial evidence, prepared by a certified actuary independent of PERS, sufficient to demonstrate why a different rate may be justified to fund the contract amendment. All economic and non-economic assumptions relied upon by the independent actuary must be submitted to PERS along with the request.

PERS will acknowledge the request in writing within 15 calendar days of its receipt. PERS will issue a substantive determination to grant or deny the request for a different rate within 45 days from the date of acknowledgement. PERS will specify the reason(s) for its grant or denial, and will give the requestor a copy of all actuarial evidence and any other factual data relied upon in making its determination.

(c) An employer or recognized employee organization directly affected by the PERS determination may petition the Board of Administration to adopt a different rate for fully funding the conversion of EPMC during final compensation, based on the administrative record established during the review. The Board will not conduct an administrative hearing in accordance with the Administrative Procedure Act, but will respond to the petition in open session at one of its regularly scheduled meetings.

Both the petitioner and PERS may submit a written statement to the Board in support of its position in advance of the meeting. This statement must not be longer than three pages, single spaced. It must be received by the Executive

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Office, Public Employees' Retirement System, P.O. Box 942701, Sacramento, CA 94229-2701, at least 15 days prior to the scheduled meeting.

NOTE: Authority cited: Sections 20120-20124 and 21760, Government Code. Reference: Sections 20691, 20692, 20636 and 20636.1, Government Code.
Research Note: See Internal Revenue Code Secs. 401 and 415; *Oden v. Public Employees' Retirement System* (1994) 23 Cal.App.4th 194 [28 Cal.Rptr. 388]; *City of Sacramento v. Public Employees' Retirement System* (1991) 229 Cal.App.3d 1470 [280 Cal.Rptr.847].

HISTORY:
1. New section filed 7-5-94 as an emergency; operative 7-5-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to O__ by 11-2-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-5-94 order transmitted to OAL 10-28-94; disapproved by OAL and order of repeal as to 7-5-94 order filed on 12-14-94 (Register 94, No. 50).
3. New section refiled 12-15-94 as an emergency, with amendments; operative 12-15-94 (Register 94, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-14-95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-15-94 order including amendments transmitted to OAL 4-11-95 and filed 5-23-95 (Register 95, No. 21).
5. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 569. Employer Paid Member Contributions.

A contracting agency or school employer that pays all or a portion of normal member contributions based on compensation earnable, as Employer Paid Member Contributions (EPMC), must conform to the "group or class" requirements in Section 20691 of the Government Code and these regulations.

(a) Specifically, the payment of EPMC must be:

(1) Authorized in a written labor agreement;

(2) Based on earnings for normally-required duties;

(3) Based on earnings for normal hours of employment;

(4) Paid periodically, along with the earnings on which it is based;

(5) Based on earnings that are historically consistent; and

(6) Not final settlement pay.

However, the employer may qualify its payment of EPMC, by electing a cumulative "time-in-grade exception" which shall only apply to persons newly-hired into the pertinent group or class of employment.

(b) To be classified as "newly-hired," a member of the group or class must not have been previously hired or retained by the employer in any capacity whatsoever.

(c) To elect the time-in-grade exception, the employer's governing body must adopt an enabling resolution or ordinance in which it agrees to abide by the standards in this Section 569. The exception cannot take effect until after the resolution or ordinance has been reviewed and approved by CalPERS.

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(d) The time-in-grade exception may be incremental, but it cannot exceed a total of five (5) years. For example, the employer may set a three-year threshold for paying fifty percent (50%), which increases by paying twenty-five percent (25%) each year, for up to two additional years of time-in-grade.

(e) Once a newly-hired employee has satisfied the time-in-grade exception, he or she shall be entitled to payment of EPMC on the same terms that apply to all other employees in the pertinent group or class.

The exception from paying EPMC pursuant to this Section 569 is separate and apart from the exception from paying and reporting the value of EPMC as an item of special compensation pursuant to Section 571(a). Both of these exceptions are separate and apart from, or do they apply to, the process for converting EPMC to payrate during the period of final compensation pursuant to Section 20692 of the Government Code.

NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Section 20691, Government Code.

HISTORY:
1. New section filed 9-22-99; operative 10-22-99 (Register 99, No. 39).
2. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 570. Final Settlement Pay.

"Final settlement pay" means any pay or cash conversions of employee benefits in excess of compensation earnable, that are granted or awarded to a member in connection with or in anticipation of a separation from employment. Final settlement pay is excluded from payroll reporting to PERS, in either payrate or compensation earnable.

For example, final settlement pay may consist of severance pay or so-called "golden parachutes". It may be based on accruals over a period of prior service. It is generally, but not always, paid during the period of final compensation. It may be paid in either lump-sum, or periodic payments.

Final settlement pay may take the form of any item of special compensation not listed in Section 571. It may also take the form of a bonus, retroactive adjustment to payrate, conversion of special compensation to payrate, or any other method of payroll reported to PERS.

NOTE: Authority cited: Sections 20120-20124, Government Code; Calif. Const. Art. XVI, Section 17. Reference: Sections 20636 and 20636.1, Government Code.
Research Note: See *Oden v. Public Employees' Retirement System* (1994) 23 Cal. App. 4th 194 [28 Cal. Rptr. 2d 388]; *City of Sacramento v. Public Employees' Retirement System* (1991) 229 Cal. App. 3d 1470 [280 Cal. Rptr. 847]; *Santa Monica P.O.A. v. Bd. of Admin. Public Employees' Retirement System* (1978) 69 Cal. App. 3d 96 [137 Cal. Rptr. 771].

HISTORY:
1. New section filed 7-5-94 as an emergency; operative 7-5-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-2-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance, including amendment of section, as to 7-5-94 order transmitted to OAL 10-28-94 and filed 12-14-94 (Register 94, No. 50).
3. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 570.5. Requirement for a Publicly Available Pay Schedule.

(a) For purposes of determining the amount of "compensation earnable" pursuant to Government Code Sections 20630, 20636, and 20636.1, payrate shall be limited to the amount listed on a pay schedule that meets all of the following requirements:

(1) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;

(2) Identifies the position title for every employee position;

(3) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;

(4) Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;

(5) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;

(6) Indicates an effective date and date of any revisions;

(7) Is retained by the employer and available for public inspection for not less than five years; and

(8) Does not reference another document in lieu of disclosing the payrate.

(b) Whenever an employer fails to meet the requirements of subdivision (a) above, the Board, in its sole discretion, may determine an amount that will be considered to be payrate, taking into consideration all information it deems relevant including, but not limited to, the following:

(1) Documents approved by the employer's governing body in accordance with requirements of public meetings laws and maintained by the employer;

(2) Last payrate listed on a pay schedule that conforms to the requirements of subdivision (a) with the same employer for the position at issue;

(3) Last payrate for the member that is listed on a pay schedule that conforms with the requirements of subdivision (a) with the same employer for a different position;

(4) Last payrate for the member in a position that was held by the member and that is listed on a pay schedule that conforms with the requirements of subdivision (a) of a former CalPERS employer.

NOTE: Authority cited: Sections 20120 and 20121, Government Code. Reference: Sections 20630, 20636 and 20636.1, Government Code.

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HISTORY:
1. New section filed 7-11-2011; operative 8-10-2011 (Register 2011, No. 28).

§ 571. Definition of Special Compensation.

(a) The following list exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a written labor policy or agreement:

(1) INCENTIVE PAY

Bonus - Compensation to employees for superior performance such as "annual performance bonus" and "merit pay". If provided only during a member's final compensation period, it shall be excluded from final compensation as "final settlement" pay. A program or system must be in place to plan and identify performance goals and objectives.

Dictation/Shorthand/Typing Premium - Compensation to clerical employees for shorthand, dictation or typing at a specified speed.

Longevity Pay - Additional compensation to employees who have been with an employer, or in a specified job classification, for a certain minimum period of time exceeding five years.

Management Incentive Pay - Compensation granted to management employees in the form of additional time off or extra pay due to the unique nature of their job. Employees within the group cannot have the option to take time off or receive extra pay. This compensation must be reported periodically as earned and must be for duties performed during normal work hours. This compensation cannot be for overtime, nor in lieu of other benefits excluded under the statutes, nor for special compensation not otherwise listed in this Section 571.

Marksmanship Pay - Compensation to local police officers, county peace officers and school police or security officers who meet an established criterion such as "certification" as a marksperson.

Master Police Officer - Compensation to local police officers, county peace officers and school police or security officers who meet specified requirements, years of employment, performance standards, education, Peace Officer Standard Training (POST), and perform a specialty assignment.

Physical Fitness Program - Compensation to local safety members and school security officers who meet an established physical fitness criterion.

Value of Employer-Paid Member Contributions (EPMC) - The full monetary value of employer-paid member contributions (EPMC) paid to CalPERS and reported as an item of special compensation on behalf of all members in a group or class.

The value of EPMC is calculated on all "compensation earnable" excluding the special compensation of the monetary value of EPMC paid to CalPERS by

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the employer under Government Code section 20636(c)(4), thus eliminating a perpetual calculation.

(A) A resolution or ordinance of the governing body must be provided to CalPERS indicating the group or class, effective date, and the percent or amount of EPMC being paid and reported as an item of special compensation. The resolution or ordinance must be formally adopted by the employer's governing body, and submitted to CalPERS for review and approval.

(B) The resolution or ordinance must specify that the value of EPMC will be reported as an item of special compensation consistently, for all members in the affected group or class of employment — except that the employer's governing body may elect a "time-in-grade exception" which shall only apply to persons newly-hired into the pertinent group or class of employment.

(C) To be classified as "newly-hired," a member of the group or class must not have been previously hired or retained by the employer in any capacity whatsoever.

(D) The time-in-grade exception must be elected in the same resolution or ordinance, or by amendment thereto, as adopted by the employer's governing body for the purpose of paying and reporting the value of EPMC, pursuant to this Section 571. The exception can only be used for the value of EPMC, and not for any other item of special compensation.

1. The time-in-grade exception must be applied consistently to all newly-hired employees in the pertinent group or class.

2. The time-in-grade requirement may be incremental, not to exceed a total of five (5) years. For example, the initial requirement may be three years for paying fifty percent (50%) with increases of twenty-five percent (25%) for each additional year of time-in-grade.

3. Once the initial time-in-grade requirement has been met by a newly-hired employee, the employer shall begin paying and reporting the value of EPMC for him or her to the same extent as for all others in the pertinent group or class.

(E) To implement the time-in-grade exception, the employer's governing body must acknowledge that it may experience an upward adjustment to its employer contribution rate. The acknowledgment must be included in the resolution or ordinance by which the employer's governing body elected to pay and report EPMC as an item of special compensation, by adoption or amendment thereto.

(F) The full terms of the resolution or ordinance by which the employer's governing body elects to pay and report the value of EPMC as an item of special compensation — along with any time-in-grade exception for newly-hired employees — must be incorporated into the written labor agreement that pertains to the affected group or class of employment.

The time-in-grade exception from paying and reporting the value of EPMC as an item of special compensation pursuant to this Section 571, is separate and apart from the time-in-grade exception from paying EPMC pursuant to Section

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569 of these regulations. Both of these exceptions are separate and apart from, nor do they apply to, the process for converting EPMC to payrate during the period of final compensation, pursuant to Section 20692 of the Government Code.

Off-Salary-Schedule Pay - Compensation in addition to base salary paid in similar lump-sum amounts to a group or class of employees. These payments are routinely negotiated through collective bargaining in lieu of increases to the salary schedule. These payments are based on a similar percent of scheduled salary not to exceed six percent (6%) per fiscal year. The contracting agency or school employer may adopt similar action for non-represented groups or classes of employment as were negotiated through collective bargaining.

(2) EDUCATIONAL PAY

The items of special compensation outlined below do not include reimbursement to an employee for the cost of an application or test, books, tuition or travel.

Applicator's Differential - Compensation to employees who are required to maintain a Qualified Pesticide Applicator's Certificate.

Certified Public Accountant Incentive - Compensation to miscellaneous employees passing an exam and receiving a license as a Certified Public Accountant.

Educational Incentive - Compensation to employees for completing educational courses, certificates and degrees which enhance their ability to do their job. A program or system must be in place to; evaluate and approve acceptable courses. The cost of education that is required for the employee's current job classification is not included in this item of special compensation.

Emergency Medical Technician Pay - Compensation to safety employees who obtain and maintain an emergency medical technical (EMT) certification.

Engineering Registration Premium - Compensation to engineers who have taken and passed a California engineering proficiency exam and are registered with the State of California.

Government Agency Required Licenses - Compensation to employees receiving and maintaining a license required by government or regulatory agencies to perform their duties.

International Conference of Building Officials (ICBO) Certificate - Compensation to building inspectors who obtain and maintain an International Conference of Building Officials (ICBO) certificate in one or more certified areas.

Mechanical Premium (Brake Adjustment License, SMOG Inspector License) - Compensation to employees who obtain and maintain state-required mechanical licenses.

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National Institute of Automotive Service Excellence (NIASE) Certificate - Compensation to mechanics who obtain and maintain a National Institute of Automotive Service Excellence (NIASE) certificate.

Notary Pay - Compensation to clerical employees who obtain and maintain a notary public certificate from the State of California or are deputized by an agency's chief administrative officer to sign legal or financial documents for the agency.

Paramedic Pay - Compensation to employees who obtain and maintain certification in auxiliary medical techniques.

Peace Officer Standard Training (POST) Certificate Pay - Compensation to local police officers, county peace officers and school police or security officers who obtain Peace Officer Standard Training (POST) certification.

Reading Specialist Premium - Compensation to certificated employees who have obtained special training and provide literacy instruction as part of their teaching duties.

Recertification Bonus - Compensation to local firefighters who obtain and maintain a fire safety and prevention certificate for a specified period of time.

Special Class Driver's License Pay - Compensation to school bus drivers or street maintenance employees who are required to obtain and maintain a special class driver's license to perform their duties.

Undergraduate/Graduate/Doctoral Credit - Compensation to school district employees who are required to obtain a specified degree.

(3) PREMIUM PAY

Temporary Upgrade Pay - Compensation to employees who are required by their employer or governing board or body to work in an upgraded position/classification of limited duration.

(4) SPECIAL ASSIGNMENT PAY

Accountant Premium - Compensation to rank and file employees who are routinely and consistently responsible for developing the employer's budget.

Administrative Secretary Premium - Compensation to an administrative secretary responsible for coordinating meetings, plans and other specialized activities for the governing body of the contracting agency or school employer.

Aircraft/Helicopter Pilot Premium - Compensation to safety employees who are routinely and consistently assigned as aircraft/helicopter pilots.

Asphalt Work Premium - Compensation to miscellaneous employees who are routinely and consistently assigned to mix, transport and/or apply a tar-like substance for sidewalks, roads, roofs and/or parking lots.

Audio Visual Premium - Compensation to miscellaneous employees who are routinely and consistently responsible for operating audio visual equipment.

Auditorium Preparation Premium - Compensation to school employees who are routinely and consistently assigned to prepare auditorium(s), i.e. setting up stages, lighting, props and chairs for performing arts purposes.

Bilingual Premium - Compensation to employees who are routinely and consistently assigned to positions requiring communication skills in languages other than English.

Branch Assignment Premium - Compensation to employees who are routinely and consistently assigned to a branch office or work site that is identified as "rural" or "remote" in the written labor agreement.

Canine Officer/Animal Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to handle, train and board a canine or horse. Compensation shall not include veterinarian fees, feed or other reimbursable expenses for upkeep of the animal.

Cement Finisher Premium - Compensation to miscellaneous employees who are routinely and consistently assigned to finish cement work, e.g. watering, brushing or surfacing.

Circulation Librarian Premium - Compensation to library staff who are routinely and consistently assigned to the circulation desk of the library.

Computer Operations Premium - Compensation to employees who have special knowledge of computer processes and applications.

Confidential Premium - Compensation to rank and file employees who are routinely and consistently assigned to sensitive positions requiring trust and discretion.

Contract Administrator Coordinator Premium - Compensation to school employees who routinely and consistently coordinate administrative contracts for instruction or facility maintenance.

Crime Scene Investigator Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to analyze and explore a crime scene.

Critical Care Differential Premium - Compensation to nursing staff who are routinely and consistently assigned to critical and intensive medical or psychological care areas.

D.A.R.E. Premium - Compensation to local police officers, county peace officers and school police or security officers who routinely and consistently provide training to students on drug abuse resistance.

Detective Division Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to a detective or investigative division or intelligence duties.

Detention Services Premium - Compensation to employees who are routinely and consistently assigned to areas where criminally charged persons are confined

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and nursing staff who are routinely and consistently assigned; to an adult facility where criminally charged persons are confined.

DUI Traffic Officer Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to enforce Driving Under the Influence (DUI) of alcohol or drug laws.

Extradition Officer Premium - Compensation to local police officers and county peace officers who are routinely and consistently assigned to return a person to the custody of another jurisdiction.

Fire Inspector Premium - Compensation to "fire inspector" personnel who are routinely and consistently assigned to inspect buildings and other permanent structures for compliance with governmental safety standards.

Fire Investigator Premium - Compensation to "fire investigation" personnel who are routinely and consistently assigned to investigate causes of destructive burning.

Fire Prevention Assignment Premium - Compensation to rank and file local firefighters who are routinely and consistently assigned to specific fire inspections and investigative work during normal hours of employment that may differ from the work schedule of fire suppression personnel.

Fire Staff Premium - Compensation to rank and file local firefighters who are routinely and consistently assigned to administrative work during normal hours of employment that may differ from the work schedule of fire suppression personnel.

Flight Time Premium - Compensation to safety employees for time spent as co-pilot or crew on work related air missions.

Float Differential Premium - Compensation for nurses not specifically assigned to a specific station.

Front Desk Assignment (Jail) - Compensation to employees staffing a jail who are routinely and consistently assigned the duty of responding to questions from the public.

Fugitive Officer Premium - Compensation to local police officers and county peace officers who are routinely and consistently assigned to pursue persons who have or are fleeing from justice.

Gang Detail Assignment Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to enforce laws relating to a group of individuals banded together for unlawful activities.

Grading Assignment Premium - Compensation to employees who are routinely and consistently assigned to inspect the degree of rise or descent of a sloping surface.

Hazard Premium - Compensation to employees who are routinely and consistently exposed to toxic, radioactive, explosive or other hazardous

substances or perform hazardous activities to implement health or safety procedures.

Heavy/Special Equipment Operator - Compensation to employees who are routinely and consistently assigned to operate heavy equipment or specialized equipment.

Height Premium - Compensation to employees who are routinely and consistently required to work on ladders or mechanical devices at heights over 40 feet.

Housing Specialist Premium - Compensation to city housing specialists who are routinely and consistently assigned to perform administrative functions of the housing division.

Juvenile Officer Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to enforce laws that restrict the activities of juveniles.

Lead Worker/Supervisor Premium - Compensation to employees who are routinely and consistently assigned to a lead or supervisory position over other employees, subordinate classifications, or agency-sponsored program participants.

Library Reference Desk Premium - Compensation to library staff who are routinely and consistently assigned to provide direction or resources to library patrons.

Maintenance Premiums:

Gas Maintenance Premium - Compensation to maintenance employees who are routinely and consistently assigned to inspect gas construction, repair instruments or perform pipeline welder duties.

Plumber Irrigation System Premium - Compensation to plumbers who are routinely and consistently assigned as irrigation systems plumbing specialists.

Refuse Collector Premium - Compensation to maintenance employees who are routinely and consistently assigned to collect refuse.

Street Lamp Replacement Premium - Compensation to maintenance employees who are routinely and consistently assigned to replace street lamps from an aerial bucket.

MCO Instructor Premium - Compensation to miscellaneous employees who are routinely and consistently assigned to train Motor Coach Operators, i.e. bus drivers.

Motorcycle Patrol Premium - Compensation to local police officers and county peace officers who are routinely and consistently assigned to operate and/or patrol on motorcycle.

Mounted Patrol Premium - Compensation to local police officers and county peace officers who are routinely and consistently assigned to patrol on horseback.

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Narcotic Division Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to drug enforcement.

Paramedic Coordinator Premium - Compensation to paramedics who are routinely and consistently assigned to coordinate training activities in auxiliary medical techniques.

Park Construction Premium - Compensation to groundskeepers who are routinely and consistently assigned to build park equipment.

Park Maintenance/Equipment Manager Premium - Compensation to park maintenance employees who are routinely and consistently assigned to equipment management and other administrative duties.

Parking Citation Premium - Compensation to employees who are routinely and consistently assigned to read parking meters and cite drivers who have violated parking laws.

Patrol Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to patrol detail.

Police Administrative Officer - Compensation to rank and file police officers, county peace officers and school police or security officers who are routinely and consistently assigned to police administration to provide support for the police chief and command staff in the operation of the police department.

Police Investigator Premium - Compensation to rank and file local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to analyze crimes or investigative accidents.

Police Liaison Premium - Compensation to rank and file local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to function as a liaison between special persons, groups or courts and the police/sheriff department.

Police Polygraph Officer - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to administer and interpret polygraph exams.

Police Records Assignment Premium - Compensation to employees who are routinely and consistently assigned to the police records division.

Rangemaster Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to supervise the target range facilities and all related activities.

Refugee Arrival Cleanup Premium - Compensation to employees who are routinely and consistently assigned to cleanup from activities directly related to refugee arrival flights.

Safety Officer Training/Coordinator Premium - Compensation to employees who are routinely and consistently assigned to instruct personnel in safety procedures.

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Sandblasting Premium - Compensation to miscellaneous employees who are routinely and consistently assigned to operate sandblasting equipment.

School Yard Premium - Compensation to part-time school district employees who are routinely and consistently assigned to supervise students during recreation.

Search Pay Premium - Compensation to employees who are routinely and consistently assigned to search and process prisoners in the induction area of jails.

Severely Disabled Premium - Compensation to school instructional aides who are routinely and consistently assigned to work with severely disabled students.

Sewer Crew Premium - Compensation to laborers who are routinely and consistently assigned to repair and maintain sewer systems.

Shift Differential - Compensation to employees who are routinely and consistently scheduled to work other than a standard "daytime" shift, e.g. graveyard shift, swing shift, shift change, rotating shift, split shift or weekends.

Solo Patrol Premium - Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to patrol alone in vehicles.

Sprinkler and Backflow Premium - Compensation to groundskeepers who are routinely and consistently assigned to repair large sprinkler head controllers, valves and backflow prevention devices.

Tiller Premium - Compensation to local firefighters who are routinely and consistently assigned to operate the tiller on an aerial ladder.

Tire Technician Premium - Compensation to equipment attendants who are routinely and consistently assigned to work on heavy duty tires, e.g. for buses and large construction equipment.

Traffic Detail Premium - Compensation to employees who are routinely and consistently assigned to direct traffic.

Training Premium - Compensation to employees who are routinely and consistently assigned to train employees.

Tree Crew Premium - Compensation to maintenance workers who are routinely and consistently assigned to remove, prune, or otherwise care for trees.

Utility Meter Premium - Compensation to miscellaneous employees who are routinely and consistently assigned to re-read utility meters, repair or set and install meters.

Utilities Systems Operation Premium - Compensation to maintenance or carpenter employees who are routinely and consistently assigned to planner duties in the maintenance division.

Water Certification Premium - Compensation to miscellaneous employees who are routinely and consistently assigned to test local water quality for compliance with governmental health standards.

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(5) STATUTORY ITEMS

Fair Labor Standards Act (FLSA) - Compensation paid for normal full-time work schedule including premium pay required by FLSA. For example, a firefighter's normal work schedule is 56 hours per week. FLSA states premium pay must be paid on all hours worked above 53 hours per week up to what is considered normal for employees on a full-time basis. In this example, the firefighter works 56 hours in a normal work week. Therefore compensation would be reported for 53 hours per week and FLSA premium pay would be reported for 3 hours per week. Any work performed above 56 hours per week would be considered overtime and would not be reported to PERS.

Holiday Pay - Additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays. If these employees are paid over and above their normal monthly rate of pay for approved holidays, the additional compensation is holiday pay and reportable to PERS.

For those employees with written labor agreements providing holiday credit and allowing employees to cash out accumulated holiday credit, the cash out must be done at least annually and reported in the period earned. If a written labor agreement allows an employee to accumulate holiday credit beyond the year in which it is earned and an employee later elects to cash out accumulated holiday credit, it is not compensation for PERS purposes.

If an employee utilizes the cash out option only during his/her final compensation period, it will be considered final settlement pay and excluded from reportable compensation. If the cash out option is also utilized near his/her final compensation period, it may still be excluded based upon a review of the contracting agency or school employer's experience relating to: the number of employees in the group with this option; the number of employees who exercise this option; the frequency with which employees exercise this option; whether or not the cash out is paid periodically, and in a manner that is historically consistent; and whether or not the cash out would create an unfunded liability over and above PERS' actuarial assumptions. This review will be conducted by PERS on a case-by-case basis.

Uniform Allowance - Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes.

(b) The Board has determined that all items of special compensation listed in subsection (a) are:

(1) Contained in a written labor policy or agreement as defined at Government Code section 20049, provided that the document:

(A) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;

(B) Indicates the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation;

(C) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;

(D) Indicates an effective date and date of any revisions;

(E) Is retained by the employer and available for public inspection for not less than five years; and

(F) Does not reference another document in lieu of disclosing the item of special compensation;

(2) Available to all members in the group or class;

(3) Part of normally required duties;

(4) Performed during normal hours of employment;

(5) Paid periodically as earned;

(6) Historically consistent with prior payments for the job classification;

(7) Not paid exclusively in the final compensation period;

(8) Not final settlement pay; and

(9) Not creating an unfunded liability over and above PERS' actuarial assumptions.

(c) Only items listed in subsection (a) have been affirmatively determined to be special compensation. All items of special compensation reported to PERS will be subject to review for continued conformity with all of the standards listed in subsection (b).

(d) If an items of special compensation is not listed in subsection (a), or is out of compliance with any of the standards in subsection (b) as reported for an individual, then it shall not be used to calculate final compensation for that individual.

NOTE: Authority cited: Sections 20120-20124, 20636(c)(6) and 20636.1(c)(6), Government Code. Reference: Sections 20630, 20636, 20636.1 and 20691, Government Code. Research Note: See *Oden v. Public Employees' Retirement System* (1994) 23 Cal.App.4th 194 [28 Cal.Rptr.2d 388]; *City of Sacramento v. Public Employees' Retirement System* (1991) 237 Cal.App.3d 1470 [280 Cal.Rptr. 847]; *City of Fremont v. Board of Administration* (1989) 219 Cal.App.3d 1026 [263 Cal.Rptr. 164]; *Guelfi v. Marin County Employees'Retirement Association* (1983) 145 Cal.App.3d 297 [193 Cal.Rptr. 343]; *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926 [179 Cal.Rptr. 287]; *Santa Monica P.O.A. v. Bd. of Admin. Public Employees' Retirement System* (1978) 69 Cal.App.3d 96 [137 Cal.Rptr. 771].

HISTORY:

1. New section filed 7-5-94 as an emergency; operative 7-5-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-2-94 or emergency language will be repealed by operation of law on the following day.

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2. Certificate of Compliance as to 7-5-94 order transmitted to OAL 10-28-94; disapproved by OAL and order of repeal as to 7-5-94 order filed on 12-14-94 (Register 94, No. 50).
3. New section refiled 12-15-94 as an emergency, with amendments; operative 12-15-94 (Register 94, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-14-95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-15-94 order including amendments transmitted to OAL 4-11-95 and filed 5-23-95 (Register 95, No. 21).
5. Amendment of subsections (a)-(a)(1), new subsections (a)(1)(A)-(F) and amendment of Note filed 9-22-99; operative 10-22-99 (Register 99, No. 39).
6. Amendment of subsection (a)(5) filed 5-22-2002; operative 6-21-2002 (Register 2002, No. 21).
7. Amendment of subsection (b)(1), new subsections (b)(1)(A)-(F) and amendment of Note filed 7-11-2011; operative 8-10-2011 (Register 2011, No. 28).
8. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 572. Employees Not In a Group or Class of Employment.

An employee who is not in a "group or class of employment" within the meaning of the Public Employees' Retirement Law, may request an exception from the "average increase" procedure set forth in Sections 20636 and 20636.1. The local employer may request this exception on the employees behalf.

The request must be submitted in writing, no later than 30 days after the employee first received PERS' estimate of benefits payable. If the estimate is mailed, the 30-day deadline is thirty-five calendar days after the postmark date. The request must be submitted to the:

CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
P.O. BOX 942704
SACRAMENTO, CA 94229-2704

PERS will acknowledge the request in writing, within 15 calendar days of its receipt. PERS will grant or deny the request, and specify its reasons in writing, within 45 days from the date of acknowledgement. PERS' decision to grant or deny the request will be based on a comparison between increased compensation earnable, as reported for the employee during his or her period of final compensation and compensation earnable reported for the group or class of employees in his or her same membership classification.

PERS will review the full history of payroll reporting for the employee, and all relevant payroll reporting for the membership classification, as to both payrate and special compensation. In no case will an exception be granted if PERS determines that the comparative increase in compensation earnable by the employee fails to conform with the following standards set forth in subsections (a) and (b) below as well as other applicable provisions of the law.

(a) If reported in payrate, the increased compensation must be:

(1) Contained in a written labor agreement;

(2) Part of normally-required duties;

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(3) Performed during normal hours of employment;

(4) Paid periodically as earned;

(5) Historically consistent with prior payments for the membership classification; and

(6) Not final settlement pay.

(b) If reported in special compensation, the increased compensation must be:

(1) Contained in a written labor agreement;

(2) Part of normally-required duties;

(3) Performed during normal hours of employment;

(4) Paid periodically as earned;

(5) Historically consistent with prior payments for the membership classification;

(6) Listed as special compensation in Section 571; and

(7) Not final settlement pay.

(c) Reported increased compensation must not constitute "final settlement pay" within the meaning of Section 570 and Section 20636 and 20636.1 of the Government Code. It must conform with federal Internal Revenue Code standards in Section 415 for maintaining "qualified plan status" of the System, and in Section 401, including the "non-discrimination testing".

If the request is denied, the employee or employer may appeal PERS' decision to the Board by the procedure set forth in Sections 555.1-555.4, and Section 20134 of the Government Code.

NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 20636 and 20636.1, Government Code; IRC Sections 401, 415.

Research Note: *Oden v. Public Employees' Retirement System* (1994) 23 Cal.App.4th 194 [28 Cal.Rptr.2d 388]; ⁢*City of Sacramento v. Public Employees' Retirement System* (1991) 229 Cal.App.3d 1470 [280 Cal.Rptr. 847]; ⁢*Santa Monica P.O.A. v. Bd. of Admin. Public Employees' Retirement System* (1978) 69 Cal.App.3d 96 [137 Cal.Rptr. 771].

Regulations

HISTORY:

1. New section filed 7-5-94 as an emergency; operative 7-5-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-2-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance, including amendment of section heading and text, as to 7-5-94 order transmitted to OAL 10-28-94 and filed 12-14-94 (Register 94, No. 50).
3. Change without regulatory effect amending first and third paragraphs, subsection (c) and Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 573. Optional Membership.

Compensation and compensation earnable for members in the optional categories authorized in Section 20322 (referred to hereafter in this regulation as "optional members"), must be reported by contracting agency and school

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employers pursuant to the same statutory and regulatory requirements that apply to all other members.

(a) Specifically, said compensation shall conform to the "group or class" requirements that apply to payrate and items of special compensation, as shown below:

(1) Contained in a written labor agreement;

(2) Part of normally-required duties;

(3) Performed during normal hours of employment;

(4) Paid periodically as earned;

(5) Historically consistent with prior payments for the membership classifications; and

(6) Not final settlement pay.

(b) For persons who become optional members before July 1, 1994 by virtue of their position as a "city attorney" or "assistant city attorney" the following standards shall also apply:

(1) If compensation or compensation earnable (whether reported as payrate or special compensation) are set forth in a contract for legal services, then that contract shall be the equivalent of a written labor agreement.

(2) Compensation and compensation earnable shall be limited to payment for work performed by the optional member in his or her individual capacity as the city attorney or assistant city attorney, and shall not include payment for work performed by other persons (e.g., partner, associate, consultant) in the office of city attorney or a law firm that provides the services of a city attorney.

NOTE: Authority cited: Sections 20120-20123, 20636 and 20636.1, Government Code. Reference: Sections 20322, 20630, 20636 and 20636.1, Government Code.

HISTORY:
1. New section filed 9-22-99; operative 10-22-99 (Register 99, No. 39).
2. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

ARTICLE 5. MEMBER CONTRIBUTIONS

§ 575. Refund of Additional Contributions.

Contributions made by a member pursuant to Section 20630, Government Code, in excess of normal contributions, shall be refunded on written application filed in the office of the board at any time; provided, however, that such refund may not be made within one year following the date of any previous refund of additional contributions, and provided further that a partial refund shall not be made. Such refund may be authorized by the board notwithstanding the limitations herein with respect to the date of previous refund upon a showing of good cause therefor.

NOTE: Authority cited: Section 20120, Government Code. Reference: Section 20630, Government Code.

HISTORY:
1. Amendment filed 1-30-80; effective thirtieth day thereafter (Register 80, No. 5).

§ 575.1. Deposit of Contributions.

Any deposit of contributions for, but not limited to, service credit elections, except those made pursuant to Government Code section 21073.1[Deering's], to be made in installments, must be made by payroll deduction upon such installment plan as may be elected, subject to the following conditions:

(a) Installments must be uniform for each payroll period;

(b) The installments may not be less than $15.00 per month (or the semi-monthly, bi-weekly or quadri-weekly equivalent); and

(c) The number of installments may not exceed 180 monthly (or the semi-monthly, bi-weekly or quadri-weekly equivalent) payroll periods.

(d) Interest on the unpaid balance of the amount payable to the Public Employees' Retirement Fund, except as provided in subsections (e) and (f), shall accrue at the member interest crediting rate provided in section 20178 on the effective date of the member's election or contribution adjustment.

(e) Interest on the unpaid balance of the amount payable to the Public Employees' Retirement Fund for a member's election to receive service credit subject to section 21052 shall accrue at the actuarial interest rate used in the calculation of the benefit liability.

(f) Interest on the unpaid balance of the amount payable to the Judges' Retirement Fund or the Judges' Retirement Fund II for a judge's election to receive service credit, pursuant to section 75030.8 or 75506.5, shall accrue at the actuarial interest rate used in the calculation of the benefit liability.

For purposes of this section, the applicable interest rate provided in subsections (d), (e), and (f) shall be applied from the effective date of the service credit election or contribution adjustment through the completion of payments.

An installment plan elected by a member or judge may be modified to extend the period of payment upon the Board's finding that the existing plan is effecting a hardship for the member or judge provided, however, that the plan as extended does not result in a total number of deductions, including the number already paid, exceeding the maximum permitted under this section and otherwise complies with this section.

NOTE: Authority cited: Sections 20120 and 20121, Government Code. Reference: Sections 20750 and 21050, Government Code.

HISTORY:
1. New section filed 2-16-72; designated effective 4-1-72 (Register 72, No. 8).
2. Amendment of section and Note filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).
3. Amendment of section and Note filed 7-6-2006; operative 8-5-2006 (Register 2006, No. 27).

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§ 575.2. Deposit of Contributions Pursuant to Government Code Section 21073.1.

Any deposit of contributions for a member service credit election pursuant to Government Code section 21073.1, to be made in installments, must be made by payroll deduction upon such installment plan as may be elected by the member, subject to the following conditions:

(a) Installments must be uniform for each payroll period;

(b) The installments may not be less than $15.00 per month (or the semi-monthly, bi-weekly or quadri-weekly equivalent); and

(c) The number of installments may not exceed 180 monthly (or the semi-monthly, bi-weekly or quadri-weekly equivalent) payroll periods.

(d) Interest on the unpaid balance of the amount payable to the Public Employees' Retirement Fund shall accrue at the member interest crediting rate provided in section 20178 on the effective date of the member's election.

For purposes of this section, the interest rate provided in subsection (d) shall be applied from the effective date of the member's election through the completion of payments.

An installment plan adopted by a member may be modified to extend the period of payment upon the Board's finding that the existing plan is effecting a hardship for the member provided, however, that the plan as extended does not result in a total number of deductions, including the number already paid, exceeding the maximum permitted under this section and otherwise complies with this section.

NOTE: Authority cited: Sections 20120, 20121 and 21073.1, Government Code. Reference: Section 21073.1, Government Code.

HISTORY:

1. New section filed 5-4-2000; operative 5-4-2000 pursuant to Government Code section 11343.4(d). Exempt from OAL review pursuant to Government Code section 21073.1] (Register 2000, No. 18).
2. Amendment of introductory paragraph, new subsection (d) and new penultimate paragraph filed 7-6-2006; operative 8-5-2006 (Register 2006, No. 27).

§ 576. Additional Contributions by Employer.

(a) An employer's election, pursuant to Section 20710, Government Code, to make additional contributions, shall be made by filing with the Board a copy of formal action taken by the employer's governing body. Such election shall be effective with respect to payroll periods beginning on and after the date specified by the governing body but no earlier than the 30th day following filing in the office of the Board.

(b) An employer's election to make such additional contributions is subject to the following conditions:

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(1) Such additional contributions must be separately identified and reported to the Board on the regular payroll reports of the employer each time a payment is made.

(2) The employer shall provide each affected employee with an annual and accumulative statement of the specific amounts contributed by the employer to that employee's additional contribution account.

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 20016, 20710, 20711 and 20712, Government Code.

HISTORY:
1. New section filed 2-26-75; effective thirtieth day thereafter (Register 75, No. 9).
2. Amendment of subsection (b) filed 6-18-76; effective thirtieth day thereafter (Register 76, No. 25).
3. Change without regulatory effect amending subsection (a) and Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

ARTICLE 5.5. STATE CONTRIBUTION PAYMENT SCHEDULES

§ 577. Transfer of State Employee Contributions.

The member portion of retirement contributions for State of California employees shall be paid to the California Public Employees Retirement System on or before the first business day after the last day of the pay period to which they refer.

NOTE: Authority cited: Sections 20120 and 20121, Government Code. Reference: Section 20771, Government Code.

HISTORY:
1. New article 5.5 (sections 577-578) and section filed 10-18-2012; operative 11-19-2012 (Register 2012, No. 42).

§ 578. Transfer of State Employer Contributions.

The State of California employer portion of retirement contributions due to the California Public Employees Retirement System (System) shall be paid to the System on the dates specified:

(a) For payroll periods ending in the months of July, August and September payment of contributions due shall be made to the System no later than the first business day in October.

(b) For payroll periods ending in the months of October and November payment of contributions due shall be made to the System no later than December 17 or the prior business day if December 17 is a weekend or state' holiday.

(c) For the payroll period ending in the month of December payment of contributions due shall be made to the System no later than the first business day in January.

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(d) For payroll periods ending in the months of January and February payment of contributions due shall be made to the System no later than April 16 or the next business day if April 16 is a weekend or state holiday.

(e) For the payroll period ending in the month of March payment of contributions due shall be made to the System no later than the first business day in April.

(f) For payroll periods ending in the months of April, May and June payment of contributions due shall be made to the System no later than the first business day in July.

NOTE: Authority cited: Sections 20120 and 20121, Government Code. Reference: Sections 20826 and 20831, Government Code.

HISTORY:
1. New section filed 10-18-2012; operative 11-19-2012 (Register 2012, No. 42).

ARTICLE 6. 2013 PUBLIC EMPLOYEES' PENSION REFORM IMPLEMENTATION

§ 579. Scope and Authority.

These regulations interpret and implement the pension reform provisions authorized by the California Public Employees' Pension Reform Act of 2013 (PEPRA) (Government Code sections 7522 through 7522.74), related Public Employees' Retirement Law (PERL) changes to Government Code sections 20281.5, 20516, 20516.5, 20677.96, 20683.2, 20791, 21076, 21076.5, and 21400 (PERL provisions), and related changes to Government Code sections 9355.4 through 9355.45 (Legislators' Retirement System provisions).

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 7522, 7522.02, 7522.04, 7522.10, 7522.15, 7522.18, 7522.20, 7522.25, 7522.30, 7522.32, 7522.34, 7522.40, 7522.42, 7522.43, 7522.44, 7522.46, 7522.48, 7522.52, 7522.56, 7522.57, 7522.66, 7522.70, 7522.72, 7522.74, 9355.4, 9355.41, 9355.45, 20281.5, 20516, 20516.5, 20677.96, 20683.2, 20791, 20176, 21076.5 and 21400, Government Code.

HISTORY:
1. Amendment of article heading and new article 6 (sections 579-579.24) and section filed 8-12-2013; operative 8-12-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 33).

§ 579.1. New Members and Classic Members Defined.

(a) For purposes of this article, "new members" are those individuals defined in Government Code section 7522.04(f). All sections in this article apply exclusively to new members, unless expressly stated otherwise.

(b) For purposes of this article, "classic members" are members who do not meet the definition of new members as provided by Government Code section 7522.04(f).

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 7522.04, Government Code.

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HISTORY:
1. New section filed 8-12-2013; operative 8-12-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 33).

§ 579.2. Additional Definitions.

(a) For purposes of determining whether an individual is an "active member" pursuant to Government Code section 7522.04(f)(3), the phrase shall mean an individual who meets the definition of a "member" under Government Code section 20370(a) and who is employed by a CalPERS-covered employer.

(b) The term "Retirement Plan" as used in Government Code section 7522.02(c) shall mean those benefits (as that term is defined in Government Code section 20020) and optional benefits established by the PERL that would otherwise be available to the member had he or she been an employee of the subsequent employer (as that term is used in section 7522.02(c)). This subdivision (b) shall apply to classic members.

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 7522.02, 7522.04, 7522.10, 7522.32, 7522.34, 20020 and 20370, Government Code.

HISTORY:
1. New section filed 8-12-2013; operative 8-12-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 33).
2. New subsection (b) and amendment of Note filed 10-25-2013; operative 10-25-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 43).

§ 579.3. Subject to Reciprocity Defined.

(a) For purposes of this article, "reciprocity" means the recognition by CalPERS of certain reciprocal benefit rights available to members who move from one public retirement system to another public retirement system. At a minimum, reciprocity means recognition by CalPERS of a member's payrate during a period of service as a member of the other public retirement system for purposes of computing final compensation upon retirement. Reciprocity is established by statute or by an agreement between CalPERS and the other public retirement system, and includes, among others, those agreements between CalPERS and the California State Teachers' Retirement System, the Legislators' Retirement System, the Judges' Retirement System I and the Judges' Retirement System II.

(b) (1) For purposes of this subdivision (b), "Applicable Date" shall mean the individual's appointment date for the most recent employment resulting in active membership in CalPERS. The "Applicable Date" may be a date that is later than the individual's original CalPERS membership date, such as when an individual was employed by a CalPERS-covered employer prior to being a member of the reciprocal retirement system.

(2) As used in Government Code sections 7522.02(c) and 7522.04, "subject to reciprocity" means that, on the Applicable Date, an individual is eligible for reciprocity pursuant to the terms of a statute or reciprocity agreement

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to which CalPERS is a party, provided he or she did not have a break in service of more than six (6) months immediately preceding the Applicable Date.

(3) To be "subject to reciprocity," an individual need not have made an affirmative election to invoke reciprocity rights on the Applicable Date, nor must the individual actually exercise the reciprocity rights when he or she retires, provided he or she is eligible for such reciprocity on the Applicable Date.

(c) The following procedures shall be used to determine whether a newly-hired individual is "subject to reciprocity" pursuant to Government Code sections 7522.02(c) and 7522.04:

(1) Each newly-hired individual shall be responsible for self-certifying in writing to the employer and to CalPERS that he or she is also a member of another public retirement system and is eligible for reciprocity.

(2) If a newly-hired individual certifies that he or she is also a member of another public retirement system and is eligible for reciprocity, the employer shall request the following information from the newly-hired individual, and the newly-hired individual must provide the following information within ten (10) business days of the request.

(A) The newly-hired individual's name, including the name that is used in the other public retirement system, if different;

(B) The newly-hired individual's identification number (Social Security Number or CalPERS ID Number);

(C) The name of the other public retirement system;

(D) The newly-hired individual's separation date from the employer in the other public retirement system;

(E) The newly-hired individual's first date of employment with the new employer; and

(F) The newly-hired individual's first date of membership in their earliest public retirement system that is subject to reciprocity, as that term is used and defined by this section.

(3) CalPERS will use the information listed above to determine if the newly-hired individual is "subject to reciprocity" (as defined in subdivision (b) above) pursuant to Government Code sections 7522.02(c) and 7522.04, and to determine the applicable retirement benefit formula for the newly-hired individual.

(4) The employer shall retain the retirement and benefit-related information provided by the newly-hired individual including, but not limited to, the information listed above. The employer shall provide this information to CalPERS upon request during the enrollment process or during any future investigations or audits.

NOTE: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123 and 20124, Government Code. Reference: Sections 7522.02 and 7522.04, Government Code.

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HISTORY:
1. New section filed 10-25-2013; operative 10-25-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 43).

§ 579.4. Break in Service Defined.

For the purposes of determining whether an individual is a new member pursuant to Government Code section 7522.04(f), a "break in service" shall mean a permanent separation from employment, and shall not include leaves of absence or other temporary leaves.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 7522.04, Government Code.

HISTORY:
1. New section filed 8-12-2013; operative 8-12-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 33).

§ 579.21. Determination of Final Compensation.

For purposes of implementing Government Code section 7522.32 and determining the final compensation amount for New Members, CalPERS will apply a cap to all pensionable compensation used in the calculation of final compensation in accordance with Government Code section 7522.10 and Regulation section 579.22. The final compensation period used to calculate the defined benefit will be the applicable measurement period set forth in Government Code section 7522.32(a). Final compensation will be the annual average of the total final compensation for the applicable measurement period calculated in accordance with Regulation section 579.22, which amount shall be determined by dividing such total final compensation for each full calendar year and portion of a calendar year calculated under Regulation section 579.22, subdivisions (a)(1) and (2), by the number of years in such applicable measurement period. For example, if the applicable measurement period is 36 months (*i.e.*, three years), final compensation taken into account in calculating a member's defined benefit will be equal to the total sum of the final compensation for the applicable measurement period calculated for each full calendar year and portion of a calendar year under Regulation section 579.22, subdivisions (a)(1) and (2), divided by three years.

NOTE: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123 and 20124, Government Code. Reference: Sections 7522.04, 7522.10 and 7522.32, Government Code.

HISTORY:
1. New section filed 10-25-2013; operative 10-25-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 43).

§ 579.22. Application of Pensionable Compensation Cap.

(a) For the purposes of administering Government Code section 7522.10, CalPERS will cap the pensionable compensation used to determine final

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compensation as specified in Government Code section 7522.32 in the following manner:

(1) For each portion of the final compensation period that is comprised of a full calendar year from January 1 to December 31, the maximum pensionable compensation that may be taken into account for such calendar year will be equal to 100 percent of the applicable pensionable compensation cap for that calendar year. A member's final compensation for such calendar year will be equal to the lesser of the actual pensionable compensation earned by the member during such calendar year or the maximum pensionable compensation for such year.

(2) For each portion of the final compensation period that is comprised of less than a full calendar year, the maximum pensionable compensation that may be taken into account for the calendar year in which such final compensation is earned will be equal to the applicable pensionable compensation cap for such calendar year, multiplied by; a fraction which is equal to the number of days of the final compensation period falling within that calendar year, divided by the total number of days falling within that calendar year. A member's final compensation for such portion of a calendar year will be equal to the lesser of the actual pensionable compensation earned by the member during such portion of a calendar year or the maximum pensionable compensation for such portion of a year.

(b) Member contributions are not required on pensionable compensation paid to members that exceeds the cap articulated in section 7522.10 on a calendar year basis. Notwithstanding anything to the contrary in this Regulation section 579.22, in determining the applicable pensionable compensation cap taken into account with respect to a member for any calendar year or portion of a calendar year that falls within the final compensation period, such cap will not exceed the maximum cap imposed on contributions that were made by, or on behalf of, such member for that calendar year or portion of a calendar year.

NOTE: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123 and 20124, Government Code. Reference: Sections 7522.04, 7522.10, 7522.32 and 7522.34, Government Code.

HISTORY:

1. New section filed 10-25-2013; operative 10-25-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 43).

§ 579.24. Final Compensation Calculations for Service Accrued Under PEPRA and the PERL.

(a) Retirement benefit provisions under PEPRA, including but not limited to Government Code sections 7522.10, 7522.32, and 7522.34, require retirement benefits for new members to be calculated differently from retirement benefits for classic members under the PERL. Therefore, it is possible for a member to separately accrue service credit as a new member for one period of service and as a classic member for another period of service,

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(b) Where a member has accrued service credit as a classic member and separately accrues service credit as a new member, each with a period of service resulting in a different final compensation amount, CalPERS will apply one final compensation amount for the service credit accrued as a classic member, and a second final compensation amount for the service credit accrued as a new member. CalPERS will then use both figures to calculate the total retirement benefit owed.

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 7522.10, 7522.32 and 7522.34, Government Code.

HISTORY:
1. New section filed 8-12-2013; operative 8-12-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 33).

§ 579.25. Public Safety Officer Exception to the 180-Day Wait Period.

Government Code section 7522.56(f)(4) includes a 180-day wait period between the retirement date and the start date of post-retirement employment. An exception to this wait period is provided for public safety officers. For purposes of implementing section 7522.56(f)(4), the term "public safety officer" shall include all peace officers as identified in Government Code section 3301.

NOTE: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123 and 20124, Government Code. Reference: Sections 3301 and 7522.56, Government Code.

HISTORY:
1. New section filed 10-25-2013; operative 10-25-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 43).

ARTICLE 7. BENEFITS

Regulations

§ 580. Dependency.

A person is receiving at least one-half of his support from a member if the member is making regular contributions in cash or kind to such support to the extent of one-half or more thereof.

(a) "Support", includes food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items of maintenance of the persons supported at the standard of living in the occupation or employment engaged in by the person supported while he was employable. In determining support at the time of death, consideration may be given to support during the year preceding death. To the extent that the person supported and other persons derive support from a common fund or receive a common item of support and expenditures cannot be identified as to person and disproportionate support requirements are not shown, the person's support shall be established by equal proration of the total expenditures between the persons.

(b) A contribution made to a fund to which several persons contribute and from which several members of a family derive common support will be

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presumed made to the support of each person deriving support from the fund in the proportion of such contribution to the total contribution. Community funds of a member and a member's spouse contributed to the support of the member's parent or parents will be considered a contribution by the member to a maximum of the amount of community funds or property considered the property of the member under this rule.

(c) Any person claiming a benefit as a dependent parent shall file an affidavit or statement under penalty of perjury concerning the income and support in such form or forms and in such detail as may be required by the Executive Officer.

NOTE: Authority cited: Section 20120, Government Code. Reference: Sections 20041, 21263, 21263.4, and 21382.2, Government Code.

HISTORY:
1. Amendment filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).
2. Editorial correction of Reference cite (Register 95, No. 5).

§ 580.1. Full-Time Student—Educational Institution.

For purposes of any benefit payable to or because of a child who is a full-time student, a full-time student is one who is in full-time attendance at an educational institution if he is carrying a subject load which is considered full time for day students under the standards and practices of the educational institution. However, a student will not be considered in full-time attendance if:

A. He is enrolled in a junior college, college, or university in a course of study of less than 13 school weeks' duration; or

B. He is enrolled in any other educational institution and either the course of study is less than 13 school weeks' duration or his scheduled attendance is at the rate of less than 20 hours a week.

A high school, trade or vocational school, junior college, college or university is an "educational institution" if:

(a) It is operated or directly supported by the United States, by a State or local government or a political subdivision thereof; or

(b) It has been approved by a State, or accredited by a State-recognized or nationally-recognized accrediting agency; as determined by the Executive Officer.

This definition includes both public and private schools which meet the requirements of (a) or (b) above.

Survivor benefits will be reduced or discontinued effective the month following loss of student status as determined under forms and procedures established by the Executive Officer.

NOTE: Authority cited: Sections 20120-20124, Gov. Code. Reference: Section 21382.5, Gov. Code.

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HISTORY:
1. New Section filed 10-22-69 as an emergency; designated effective 11-10-69 (Register 69, No. 43).
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 12-30-69 (Register 70, No. 1).
3. Amendment filed 2-26-75; effective thirtieth day thereafter (Register 75, No. 9).

§ 581. Retirement Allowance Deductions.

(a) Approval of Group Insurance Plans.

Any contracting agency under the Public Employees' Retirement System having an insurance plan for its active and retired employees or retired employees or any association composed of employees and persons retired under the Public Employees' Retirement System, or of such retired persons having an insurance plan for its membership, may submit such plan to the board for approval.

(1) Eligibility.

Any person retired under the Public Employees' Retirement System and any beneficiary under the system who is eligible for coverage under an insurance plan approved by the board, may authorize, pursuant to these rules, deductions to be made from monthly payments of his retirement allowance or benefit for payment of premiums, dues, or charges under such plan.

(2) Forms and Procedures.

The executive officer shall prescribe, subject to these rules, procedures and forms for the filing of authorizations.

(3) Place of Filing.

Authorization shall be filed in the office of the board provided, however, that the executive officer may prescribe in the alternative, filing with the insurer or nonprofit membership corporation issuing the insurance plan, if such insurer or corporation has undertaken in a writing filed with the board to:

(A) Supply to the board statements of deductions as specified in authorizations received by it and to save the State, the board and its employees harmless from liability for any errors in withholding or transmitting deductions except for moneys actually withheld but not transmitted.

(B) Keep all authorizations received by it available for inspection by authorized representatives of the board.

(4) Time of Filing.

Authorizations may be made effective only with regard to retirement allowance payments and premiums, dues or charges becoming due more than 30 days after the date of receipt in the office of the board of the authorization, or, where the alternative procedure under these rules is prescribed by the executive officer, of the insurer's or nonprofit membership corporation's statement of authorized deductions.

(5) Authorization Changes.

Deductions may be changed in amount or terminated in the manner provided for filing of authorizations and may be made effective only as to

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retirement allowances payable more than 30 days after notice is received in the office of the board.

(6) Refunds.

Any amounts which have been deducted and paid to an insurer or nonprofit membership corporation and which are refundable under the insurance plan because of death of the retired person, shall be refunded to the board for distribution under the Public Employees' Retirement Law.

(b) Forms and Procedures for Deductions of National Service Life Insurance.

The executive officer shall provide forms and procedures for authorization by persons retired under the Public Employees' Retirement System of deductions from retirement allowances for payment of premiums on National Service Life Insurance or United States Government Converted Insurance.

(1) Time and Place of Filing.

Authorizations under this article shall be filed in the office of the board and may be given effect only as to retirement allowances payable and premiums becoming due more than 30 days after receipt of the authorization in the office of the board.

(c) Deduction of Employee Association Dues or Credit Union Payments or Shares.

(1) Eligibility and Conditions.

A retired person who was a state member and who is a member of any bona fide association comprised principally of employees and former employees of agencies of the State of California may authorize monthly deduction of dues of such Association, or any retired member or beneficiary who is a member of a credit union may authorize monthly deductions for payments or shares to credit unions from his retirement allowance subject to the following conditions:

(A) The Association or credit union has filed with the Public Employees' Retirement System a written request for such deduction in accordance with this subsection, and the executive officer finds in connection with such request that there is compliance with this subsection.

(B) The retired person's written authorization for deduction is filed with the Association or credit union.

(C) The Association or credit union will keep all authorizations received by it available for inspection by an authorized representative of the Board.

(D) The Association or credit union has filed an agreement which holds the Retirement System harmless from any liability except for dues or payments actually withheld but not transmitted.

(E) Any dues or payments deducted in error shall be offset, or refunded to the Board for distribution in accordance with the Public Employees' Retirement Law.

(F) The allowance of the retired person continues sufficient in amount to permit such deductions after giving effect to requests for income tax deductions and medical-hospital and life insurance premiums.

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(2) Forms and Procedures.

The executive officer shall prescribe, subject to these rules, procedures and forms for the implementation of this subsection.

(3) Cost Reimbursement.

The executive officer shall determine the administrative costs from time to time for processing and making such deductions and is authorized to collect such charges by either a withholding from amounts deducted for the Association or credit union or by a direct billing.

(4) Time and Place of Filing.

(A) Authorizations for deductions under this section may be made effective only with regard to retirement allowances payable more than 30 days after receipt in the office of the Board in Sacramento of the Notice of Authorization. No retroactive deductions will be taken.

(B) Deductions may be changed in amount or terminated in the manner provided for filing Notices of Authorization and may be made effective only as to retirement allowances payable more than 30 days after notice is received in the Sacramento office of the Board.

NOTE: Authority cited: Section 20120, Government Code. Reference: Section 20135, Government Code.

HISTORY:

1. Amendment of subsection (c) filed 2-3-78; effective thirtieth day thereafter (Register 78, No. 4). For prior history, see Register 70, No. 16.

§ 582. Beneficiary Designations.

Regulations

A member may designate as beneficiary to receive any benefit payable to a member's designated beneficiary upon death before or after retirement, any person or persons, including a corporation; provided, however, that a beneficiary designated to receive payments under an optional settlement based on life contingency may be only a natural person. The designation must be in writing, except as otherwise provided in this section, must give the name of the person and his address, and must be filed in the office of the board in Sacramento, California. The right of a beneficiary to receive payment of a benefit is contingent on his survival at the time of the member's death, and the member may designate a beneficiary or beneficiaries on the contingency that the first beneficiary does not so qualify.

A member may, subject to the conditions set forth in this paragraph, designate as beneficiaries or contingent beneficiaries, other than a beneficiary to receive payment under an optional settlement based on life contingency of the beneficiary, his children or his grandchildren by class rather than by naming the individuals as otherwise required in this section. For purposes of such designation, "children" shall mean natural or adopted children and "grandchildren " shall mean natural or adopted children of the member's "children", and shall include such children or grandchildren in being at the time of the member's death or who are conceived before the member's death and born thereafter. Payments of a benefit by the

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system on the basis of a determination in good faith of the existence and identity of the members of a class so designated shall constitute a complete discharge and release of the system from further liability for the benefit, notwithstanding that it may not have discovered a beneficiary otherwise entitled.

NOTE: Authority cited: Section 20120, Government Code. Reference: Sections 20303, 20037, 21204 and 21205, Government Code.

HISTORY:
1. New section filed 12-15-61; effective thirtieth day thereafter (Register 61, No. 25).
2. Amendment filed 12-13-66; effective thirtieth day thereafter (Register 66, No. 44).

§ 583. Election of Survivor Coverage.

An election of 1959 survivor allowance coverage as provided for by Section 21577 of the Government Code shall be subject to the following conditions:

(1) Notice of right to elect 1959 survivor coverage shall be provided by the System to contracting agencies subject to Chapter 9, Article 6 of the Government Code. It shall be the contracting agency's responsibility to notify eligible members of their right to elect hereunder.

(2) Eligible members who are employees of a contracting agency on the date such agency becomes subject to Government Code Section 21577 shall have the right to elect 1959 survivor allowance coverage. Such election must be made prior to or within 30 days of the effective date of the contracting agency's amendment to become subject to Section 21577.

(3) Members who are employees of a contracting agency on the date such agency becomes subject to Government Code Section 21577, and who elected not to be covered during the initial election period, shall have a second right of election within a three-month period beginning nine months following the effective date of the agency's contract for such coverage.

(4) To be valid, elections may be made only by the member personally in writing in the format prescribed by the Executive Officer and must be received at an office of the Board within the prescribed time periods. A member's failure to submit a valid election will be deemed an election to not be covered by the 1959 survivor allowance.

(5) A contracting agency's election to be subject to Government Code Section 21572 in lieu of Government Code Section 21571 shall not create a new right of election by employees of that agency.

(6) A member's effective date of coverage shall be (a) the date a valid election is received by the Board, during the first election period; or (b) the date which is one year following the effective date of the agency's contract for such coverage with respect to valid elections during the second election period; or (c) the date of membership for members entering employment after the date of the agency's contract for such coverage.

(7) Contributions for a member so electing shall begin in the pay period during which coverage becomes effective.

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NOTE: Authority cited: Sections 20120-20124, Government Code. Reference: Sections 21571, 21572, 21576, 21577 and 21583, Government Code.

HISTORY:
1. New section filed 10-22-69 as an emergency; designated effective 11-10-69 (Register 69, No. 43).
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 12-30-69 (Register 70, No. 1).
3. Amendment filed 4-30-74 as an emergency; effective upon filing (Register 74, No. 18).
4. Amendment filed 9-6-74; effective thirtieth day thereafter (Register 74, No. 36).
5. Repealer and new section filed 6-11-82; effective thirtieth day thereafter (Register 82, No. 24).
6. Change without regulatory effect amending first paragraph, subsections (2)-(3) and (5) and Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 585. Retirement Optional Settlement 4.

(a) For purposes of any request for a new form of optional settlement 4 subject to the approval of the board, the request must comply with applicable federal and state requirements and the following administrative requirements. If staff determines a request for a new option 4 allowance type should be denied based upon administrative criteria, staff will bring the request before the board to either approve or deny the request.

(1) There is no existing option or option 4 type that could be used to accomplish substantially the same results.

(2) Each beneficiary would receive a minimum of 25% of the member's monthly allowance. This minimum would not apply in the case of a community property interest.

(3) Each beneficiary is alive and named at the time of the designation.

(4) Upon the death of a beneficiary, there would be no continuing allowance to a secondary or contingent beneficiary.

(5) Any proposed change in future allowance payment to the retired annuitant or named beneficiary is based upon an easily identifiable event, such as a specified date or death of the retired annuitant.

(6) The requested annuity is a combination of life annuities, joint life annuities (on no more than two lives), a temporary life annuity, an annuity certain, or lump sums payable upon the death of the member or a beneficiary.

(7) The total of all lump sums payable upon death cannot exceed the amount of the member's contributions with interest at the time of retirement.

(8) The total amount (excluding lump sums payable upon death) payable in any month cannot exceed three times the amount that would have been payable for that month if the member had elected an unreduced allowance and was alive in the month.

(9) It is reasonable to expect that at least 100 members will elect the option within two years of the date that the option first becomes available.

(b) The Board may, in its discretion, establish a review period for any approved option 4 allowance type to monitor conformity with the standards in

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subsection (a) and may, on a prospective basis, terminate any current or added option 4 allowance type in subsection (c) that does not conform to those standards.

(c) The following alternative forms of option 4 allowance have been approved by the Board. However, the amount to be paid to the beneficiary cannot be more than what the member could provide the beneficiary under option 2W.

(1) "Specific Dollar Amount to a Beneficiary"

The member may specify that upon his or her death after retirement, a monthly allowance in an amount determined by the member be paid to a named beneficiary for life.

(2) "Specific Percentage to a Beneficiary"

The member may specify that upon his or her death after retirement, a monthly allowance in an amount equivalent to a specified percentage of the member's unmodified allowance be paid to a named beneficiary for life. Or, a member may specify that upon the death of either the member or named beneficiary, the survivor would receive a certain percentage of the member's unmodified allowance.

(3) "Option 2W and Option 1 Combined"

The member may specify that the same monthly allowance the member is receiving continue to be paid to his or her named beneficiary upon the member's death and that upon the subsequent death of the named beneficiary, any member contributions not used to fund the allowance be paid in a lump sum to a secondary beneficiary or beneficiaries.

(4) "Reduced Allowance for Fixed Period of Time"

The member may specify a percentage of his or her unmodified allowance to be received for a fixed period of time immediately following retirement. At the end of the specified period, the member begins to receive an increased allowance that is the actuarial equivalent of his or her remaining benefit. The allowance may be based on the member's life alone or on the joint lifetimes of the member and a named beneficiary.

(5) "Multiple Lifetime Beneficiaries"

The member may name more than one beneficiary to receive a lifetime monthly allowance following the death of the member after retirement.

(6) "Option 3W and Option 1 Combined"

The member may specify that one-half of the monthly allowance the member is receiving continue to be paid to his or her named beneficiary upon the member's death and that upon the subsequent death of the named beneficiary, any member contributions not used to fund the allowance be paid in a lump sum to a secondary beneficiary or beneficiaries.

(7) "Reduction upon Death of Retiree or Named Beneficiary"

The member may specify a minimal reduction of at least one dollar to the unmodified allowance to provide the highest allowance possible while both the member and beneficiary are living. Upon the death of either of them, the continuing allowance will be significantly reduced for the survivor.

NOTE: Authority cited: Sections 20121 and 21458, Government Code. Reference: Section 21458, Gov. Code.

HISTORY:
1. New section filed 4-26-2004; operative 5-26-2004 (Register 2004, No. 18).

ARTICLE 7.5. NORMAL RETIREMENT AGE AND BONA FIDE SEPARATION IN SERVICE

§ 586. Purpose.

The purpose of this Article is to ensure the federal tax-qualified status of the Public Employees' Retirement System by prohibiting in-service distributions to the extent required by the Internal Revenue Code, and the regulations promulgated thereunder. In the event the applicable federal law changes, the federal law shall supercede these regulations.

NOTE: Authority cited: Sections 20121 and 21220.5, Government Code. Reference: Section 21220.5, Government Code.

HISTORY:
1. New article 7.5 (sections 586-586.2) and section filed 8-20-2004; operative 9-19-2004 (Register 2004, No. 34).

§ 586.1. Normal Retirement Age.

(a) The normal retirement age of a member shall be the later of:

(1) the age when the member is first eligible to retire pursuant to Article 1 through Article 5 of Chapter 12, Part 3, Division 5 of Title 2 of the Government Code; or

(2) the highest specified age applicable to the member in the benefit formula, where the highest specified age is defined as:

(A) 65 if the member is entitled to benefits under Government Code sections 21076 or 21100;

(B) 60 if the member is entitled to benefits under Government Code sections 21353 or 21354.3;

(C) 55 if the member is entitled to benefits under Government Code sections 21354, 21354.1, 21354.5, 21363, 21363.1, 21366, 21369, or 21369.1; and

(D) 50 if the member is entitled to benefits under Government Code sections 21362, 21362.2, 21363.3, 21363.4 or 21363.8.

(b) In the event an existing benefit formula is modified or a new benefit formula is enacted, the chief actuary may determine the normal retirement age until such time that the regulations may be amended.

NOTE: Authority cited: Sections 20121 and 21220.5, Government Code. Reference: Section 21220.5, Government Code.

HISTORY:
1. New section filed 8-20-2004; operative 9-19-2004 (Register 2004, No. 34).

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§ 586.2. Bona Fide Separation in Service.

(a) For purposes of working for a CalPERS-covered employer after retirement pursuant to Article 8, of Chapter 12, Part 3, Division 5 of Title 2 of the Government Code, a member who has not attained normal retirement age shall have a bona fide separation in service. A bona fide separation in service is defined as:

(1) no predetermined agreement between the employer and the member prior to retirement to return to work for the employer after retirement; and

(2) a separation in service of at least 60 calendar days between the date of the member's retirement and the first day of work for the employer as a retired person. The 60 days shall commence on the day after retirement.

(b) Any retired person employed in violation of this regulation shall be subject to the consequences provided in Government Code section 21220.

(c) In the event an emergency has been declared as provided in Government Code Section 8558 that requires the employment of a retired person, the 60 calendar day separation in service requirement set forth in subdivision (a)(2) of this regulation shall not apply.

NOTE: Authority cited: Sections 20121 and 21220.5, Government Code. Reference: Section 21220.5, Government Code.

HISTORY:
1. New section filed 8-20-2004; operative 9-19-2004 (Register 2004, No. 34).

ARTICLE 7.6. PARTICIPATION IN RISK POOLS

§ 588. Risk Pools — Definitions

(a) For purposes of this Article, a "Rate Plan" consists of all CalPERS members for which a single employer contribution rate is produced annually.

(b) For purposes of this Article, a "Side Fund" shall be the difference between the actuarial value of assets and the actuarial liabilities of the rate plan at the time of joining a risk pool.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New article 7.6 (sections 588-588.10) and section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

§ 588.1. Risk Pools — Required Participation for Existing Contracting Agencies; Effective Date for Mandated Benefits for New and Existing Contracting Agencies

Following the creation of risk pools pursuant to Section 20840 of the Government Code, any existing contracting agency with a rate plan of less than 100 active members on any annual actuarial valuation date shall be required to participate in a risk pool. Participation shall be effective as of that valuation date

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for all members of that rate plan, but no earlier than the June 30, 2003 actuarial valuation which will be used to set employer contribution rates for fiscal year 2005-2006. The effective date of a pool's mandated benefits pursuant to § 20840 of the Government Code for contracting agencies who participate in a risk pool is the first day that the agency is required to pay for the mandated benefits.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).
2. Amendment of section heading and section filed 9-14-2009; operative 10-14-2009 (Register 2009, No. 38).

§ 588.2. Risk Pools — Required Participation for New Contracting Agencies

A new contracting agency with CalPERS following the creation of risk pools shall be required to participate in a risk pool if the number of active members in the rate plan is less, than 100 at the time of the initial actuarial valuation provided that the actuary determines such participation will not be unfavorable to other agencies in the pool. In the event that such participation would be unfavorable, the matter may be referred to the CalPERS Board for a hearing.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).
2. Amendment filed 9-14-2009; operative 10-14-2009 (Register 2009, No. 38).

§ 588.3. Risk Pools — Optional Participation

A contracting agency with 100 or more active members on each annual valuation date after June 30, 2003 may, by amendment to its contract, participate in a risk pool provided that the actuary determines such participation will not be unfavorable to other agencies in the pool. In the event that such participation would be unfavorable, the matter may be referred to the CalPERS Board for a hearing.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

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§ 588.4. Risk Pools — County Offices of Education, School Districts and Community College Districts

Notwithstanding Section 588.1, county offices of education, school districts and community college districts shall not be required to participate in a risk pool. County offices of education, school districts and community college districts shall only be allowed to establish a contract with CalPERS to participate in a risk pool if the service retirement formula of the risk pool provides higher factors at all ages than the service retirement formula applicable to school members.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

§ 588.5. Risk Pools — Amortization of Side Funds

The side fund shall be amortized at the actuarially assumed investment return. All investment gains and losses on the side fund that exceed or fall below the actuarially assumed investment return shall be attributed to the risk pool.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

§ 588.6. Risk Pools — Assignment to Risk Pools

A rate plan participating in a risk pool shall be assigned to one of the risk pools based on the service retirement formula applicable to its active members.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

§ 588.7. Risk Pools — Leaving and Transferring Between Risk Pools

Any contracting agency participating in a risk pool shall be allowed to transfer the assets and actuarial liabilities of its rate plan into another risk pool by contracting for a service retirement formula offered by the other risk pool. For this purpose, the assets to be transferred shall be the pro-rata share of the current pool's net assets (net of all side funds) plus the rate plan's remaining side fund, as determined by the actuary. Following the transfer to the new pool, a new side fund shall be established equal to the difference between the assets brought into the new pool and the product of the actuarial liabilities of the rate plan under the new service retirement formula and the net funded ratio of the new pool as determined

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by the actuary. A contracting agency shall not be allowed to terminate its participation in a risk pool, unless the agency's contract is terminated pursuant to Sections 20570, 20571, or 20572 of the Government Code. Upon termination of the contract, the affected members shall become part of the terminated agency pool pursuant to Section 20578 of the Government Code.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

§ 588.8. Risk Pools — Classification of Benefit Provisions

The CalPERS Board shall separate the benefit provisions available to a contracting agency into various classifications. These classifications will be handled as follows:

(a) Class 1 benefits may vary by rate plan within each risk pool. Agencies contracting for a Class 1 benefit will be responsible for the past service liability associated with such benefit and will be required to pay a surcharge established by the actuary to cover the ongoing cost (normal cost) of the Class 1 benefit. Class 1 benefits shall be the optional benefits meeting the following criteria:

(i) Impact the ongoing cost (either total or employer normal cost) of the risk pool by more than 0.25% of payroll; or

(ii) The benefit is not available to all plans participating in the risk pool.

(b) Class 2 benefits may vary by rate plan within each risk pool. Agencies contracting for a Class 2 benefit will be required to pay the full one time cost of the benefit, as established by the actuary. Class 2 benefits shall be the optional benefits, other than Class 1 benefits, meeting the following criteria:

(i) No impact on the ongoing cost (normal cost) of the risk pool; and

(ii) Provide a one time increase in benefit with an identifiable increase in accrued liabilities.

(c) Class 3 benefits may vary by rate plan within each risk pool. However, the employer contribution rate will not vary within the risk pool due to the Class 3 benefits. Class 3 benefits shall be the optional benefits meeting the following criteria:

(i) Impact the ongoing cost (normal cost) of the risk pool by no more than 0.25% of payroll.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

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§ 588.9. Risk Pools — Merger of Risk Pools

In the event that the number of contracting agencies participating in a risk pool is determined by the actuary to be too small to reduce the volatility in employer contribution rates caused by unexpected demographic events, the risk pool will be merged with another risk pool identified by the actuary.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

§ 588.10. Risk Pools — Superfunded Status

For employers participating in a risk pool, the actuary shall determine on an annual basis whether or not the employer's rate plan is superfunded pursuant to Section 20816 of the Government Code. In determining whether the rate plan is superfunded, the actuary shall use assets equal to the pro-rata share of the current pool's net assets plus the plan's remaining side fund. Superfunded plans may cover its employees' normal member contributions using its employer assets. Such transaction will be tracked through the rate plan's individual side fund.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code. Reference: Section 20840, Government Code.

HISTORY:
1. New section filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

ARTICLE 8. REPLACEMENT BENEFITS PLAN

§ 589. Establishment and Status of Plan

(a) Establishment.

(1) There is hereby established and adopted a retirement plan entitled the California Public Employees' Retirement System Replacement Benefits Plan (the "Plan") to restore the annual retirement benefits otherwise earned by Members of CalPERS but which are limited by the rules of Section 415 of the Internal Revenue Code of 1986, as amended ("Tax Code"). CalPERS is a tax qualified plan under Section 401(a) of the Tax Code and is a governmental plan as defined in Section 414(d) of the Tax Code.

(2) This Plan is established pursuant to the provisions of Section 401(m) of the Tax Code and Section 21757 of the Government Code. This Plan constitutes the regulations that implement Part 3.4 of the Government Code, as provided in Section 21760 thereof.

(3) The state, each school employer, and each contracting agency is deemed to have elected to contract with the Board of CalPERS for administration of this Plan, pursuant to Government Code Section 21761.

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(b) Effective Date.

(1) This Plan shall be effective as of January 1, 1999, and benefits shall be payable from this Plan on and after that date.

(2) Benefits shall be paid to CalPERS Members with respect to periods beginning on and after the Effective Date for which their CalPERS benefits are limited by Section 415.

(3) In addition, benefits with respect to periods prior to the Effective Date and on and after January 1, 1993, shall be payable under this Plan as provided in Sections 589.2 and 589.3 below.

(c) "Portion of CalPERS" — This Plan shall be deemed to be a "portion" of CalPERS and each retirement plan which exists as a part of CalPERS solely to the extent required by, and within the meaning of, Section 415(m)(3) as in effect on January 1, 2000, and not for any other purpose.

(d) Purpose and Tax Status of this Plan — In accordance with Section 415(m), this Plan is solely for the purpose of providing to Members of CalPERS, and Other Recipients that part of the annual benefit otherwise earned under CalPERS that exceeds the limitations on benefits imposed by Section 415.

NOTE: Authority cited: Section 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:

1. New article 8 (sections 589-589.10) and section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).
2. Amendment of subsection (a)(3) filed 11-18-2002; operative 12-18-2002. Submitted to OAL for printing only pursuant to Government Code section 21760 (Register 2002, No. 47).

§ 589.1. Definitions

(a) Plan Definitions — Terms used in this Plan shall have the meaning set out below:

(1) "Board" means the CalPERS Board of Administration.

(2) "CalPERS" means the California Public Employees' Retirement System.

(3) "Commencement Date" means the date of commencement of participation in this Plan as set out in Subsection 589.2(b) hereof.

(4) "Effective Date" means January 1, 1999.

(5) "Government Code" means the California Government Code.

(6) "HI Taxes" means federal hospital insurance taxes.

(7) "Member" means person who has qualified for membership in the California Public Employees Retirement System and on whose behalf an employer has become obligated to pay contributions to such System

(8) "OASDI" Taxes means federal old age, survivor and disability insurance taxes.

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(9) "Other Recipient" means any recipient of benefits from CalPERS other than the Participant, such as a beneficiary, spouse, former spouse, eligible survivor, surviving parent, surviving child, or other recipient of benefits payable from CalPERS.

(10) "Participant" means a CalPERS Member who participates in this Plan pursuant to Section 589.2 hereof.

(11) "PERF" means the Public Employees' Retirement Fund as established under Government Code Section 20170.

(12) "Plan" means this California Public Employees' Retirement System Replacement Benefits Plan.

(13) "Plan Administrator" means the Board.

(14) "Plan Year" means the 12-month period beginning on July 1 and ending on June 30.

(15) "Replacement Benefit Custodial Fund" means the fund established pursuant to Government Code Section 21758, which is separate and apart from the PERF and any other CalPERS retirement trust fund and which is established to collect, hold and disburse funds to provide benefits under the Plan.

(16) "Recommencement Date" means the date of recommencement of participation in this Plan as set out in Subsection 589.2(d) hereof.

(17) "Section 415" means Section 415 of the Tax Code.

(18) "Tax Code" means the Internal Revenue Code of 1986, as amended, and any rules and regulations issued thereunder.

(b) Other Definitions — Terms used but not defined herein which are used in and defined under the Government Code as that Code governs CalPERS shall be deemed to be a reference to the terms used in and defined in the Government Code, and shall be defined in exactly the same manner as they are defined therein unless otherwise specifically provided in this Plan.

NOTE: Authority cited: Section 20120, 20121 and 21760, Government Code. Reference: section 21757, Government Code.

HISTORY:

1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code Section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).

§ 589.2. Participation

(a) CalPERS Members With Benefits Limited by Section 415 — Participation in this Plan is limited solely to those CalPERS Members or Other Recipients whose benefits earned or payable under CalPERS are limited by Section 415 for periods on and after the Effective Date.

(b) Commencement of Participation — Participation in this Plan shall commence on the first date (on or after the Effective Date) with respect to which benefits payable to the Member from CalPERS are limited by Section 415. This date is the Commencement Date.

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(c) Cessation of Participation — Participation in this Plan shall cease as of the first date for which benefits payable to the CalPERS Member or Other Recipient are no longer limited by Section 415.

(d) Re-commencement of Participation.

(1) If any Participant has ceased participation in this Plan but at a later date his or her CalPERS benefits payable are again limited by Section 415, he or she shall again commence participation as provided in Subsection 589.2(b) hereof and shall cease participation as provided in Subsection 589.2(c) hereof.

(2) If a Participant's CalPERS benefits stop, then he or she shall cease participation in this Plan and his or her benefits shall stop under this Plan. He or she shall again commence participation as provided in Subsection 589.2(b) hereof and shall cease participation as provided in Subsection 589.2(c) hereof.

(e) Other Recipients — Any Other Recipient of benefits from CalPERS shall receive benefits under this Plan as of the first date (on or after the Effective Date) with respect to which benefits payable to him or her from CalPERS are limited by Section 415. The Other Recipient's benefits payable under this Plan shall cease as of the first date for which his or her CalPERS benefit is no longer limited by Section 415.

(f) Limited Retroactive Participation — CalPERS Members or Other Recipients whose benefits payable under CalPERS were limited by Section 415 for periods beginning on and after January 1, 1993 and ending with the Effective Date, shall be Participants in this Plan solely for the purpose of paying to them benefits that were limited by Section 415 during that period and shall be Participants solely for the time period necessary or appropriate to complete such payment. This Participation may be in addition to the Participation otherwise provided for in this Section.

(g) No One Else Shall Receive Benefits — No one other than a person described in this Section shall receive any benefits under this Plan, except as required by domestic relations orders or applicable law.

NOTE: Authority cited: Section 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:

1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).

§ 589.3. Retirement Benefits

(a) Benefits Contingent on Funding — No benefits shall accrue under this Plan to any Participant or Other Recipient unless and until the state, the school employer, or the contracting agency, as appropriate, has paid to CalPERS the amount that CalPERS has invoiced the state, school employer, contracting agency or Participant for the benefits payable, as provided in Sections 589.4 and 589.5 hereof.

(b) Amount of Benefit — Initial Determination.

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The benefit payable under this Plan shall be initially determined for each Participant at the Participant's Commencement Date under the following steps:

(1) Calculate the Participant's benefit payable under CalPERS at the time of the Commencement Date without regard to the limits of Section 415 and after taking into account the form of CalPERS benefit selected by the Participant.

(2) Determine the amount of the Participant's CalPERS benefits (if any) attributable to after tax Member contributions and attributable to rollover contributions at the Commencement Date after taking into account the form of CalPERS benefit selected by the Participant.

(3) Subtract the amount determined in (2) from the amount calculated under (1); this is the amount subject to the Section 415 limits and therefore subject to Section 415 testing.

(4) Determine the maximum benefits payable to the Participant from CalPERS under the then current benefit payment limits of Section 415, ignoring any benefits that may be attributable to after tax Member contributions or rollover Member contributions. This determination shall take into account the applicable dollar limits, and the form of benefit payment chosen. The limits may differ based on other factors such as whether the Participant qualifies for the special safety member limits under Section 415 and when he or she first became a CalPERS Member.

(5) Subtract the amount determined under (4) from the amount determined under (3). If the amount in (3) is greater than that in (4), the difference is the initial benefit payable under this Plan. If the amount in (4) is equal to or greater than the amount in (3), then no benefits are payable under this Plan.

(6) Section 415 establishes annual benefit limits and therefore, the amount of the initial benefit to be paid under this Plan that is determined under (4) is an annual benefit. For payment under this Plan, however, the amount of such initial benefit shall be converted to equal quarterly amounts.

(c) Amount of Benefit — Redeterminations.

(1) As of each January 1 following the Participant's Commencement Date or Recommencement Date (or the date of commencement or recommencement of benefits under this Plan for any Other Recipient), the Participant's, or Other Recipient's, benefit under this Plan shall be redetermined by following each of steps (1) through (6) of Subsection 589.3(b), but using the then current amounts determined by applying (i) cost of living adjustments and other changes (if any) to the benefits provided under CalPERS, and (ii) cost of living adjustments, and other changes (if any) to the maximum benefit limits established by Section 415.

(2) At the Plan Administrator's sole discretion, the amount of every Participant's and Other Recipient's benefits (on a uniform basis and not separately for any particular Participant or Other Recipient) may be redetermined at a date other than January 1 if there is a material change in the rules governing the maximum benefit limits established under Section 415 or a material change in CalPERS benefits, or for any other material reason at the Plan Administrator's sole discretion.

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(d) Amount of Benefit — Recommencement of Participation — When a Participant or Other Recipient recommences participation in this Plan, a recalculation shall occur under Subsection 589.3(c) hereof, treating the first month for which benefits resume under this Plan as if it were a date of recalculation under Subsection 589.3(c). Any cost of living adjustments shall not apply to benefits payable under this section of the Plan until they otherwise would occur under the operation of this Plan and CalPERS.

(e) Amount of Benefit — Other Recipients.

Other Recipients shall be entitled to benefits under this Plan as follows:

(1) Other Recipients shall be entitled to benefits under this Plan only if they are entitled to benefits that are limited by Section 415 under CalPERS after the death of a CalPERS Member or upon legal separation or dissolution of a marriage of a Member.

(2) The benefit payable to an Other Recipient under this Plan shall be determined as if he or she were the Participant, substituting in the calculations under Subsections 589.3(b) or 589.3(c), as applicable, the amounts due to such Other Recipient for the amounts due to the Participant.

(f) Timing of Payments.

(1) The amount of benefit provided under this Plan shall be paid quarterly starting as of the first day of the last month of the first calendar quarter following the Commencement Date. At the Plan Administrator's sole discretion, payments may be made from this Plan more or less frequently than quarterly, (and this may be done on an individual Participant basis), provided that payments to a Participant or Recipient shall be made at least annually.

(2) A pro rata amount, smaller than the quarterly payment, shall be paid for part of a quarter when the period of payment begins after the first day of the quarter or ends before the last day of the quarter.

(g) Form of Benefit Paid — The benefit paid to a Participant or Other Recipient under this Plan shall be paid in the same form as benefits are paid to him or her under CalPERS, except that periodic benefits paid under this Plan shall be paid quarterly unless otherwise provided herein.

(h) Limited Retroactive Payments.

(1) The amounts that are payable to any Participant or Other Recipient covered by Subsection 589.2(f) above shall be determined as if the Effective Date for this Plan for the Participant or Other Recipient was the first date on and after January 1, 1993 on which benefits payable to him or her under CalPERS were limited by Section 415, and the last date for which benefits were so limited was December 31, 1998. All of the other provisions in this Section 589.3 (including but limited to Subsection 589.3(a)) shall apply to determine such payment, except as provided in this Subsection 589.3(h).

(2) Benefits payable under this Subsection 589.3(h) shall be paid as soon as reasonably practicable.

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(3) Benefits payable under this Subsection 589.3(h) shall be paid, to the extent reasonably practicable, in a single sum.

(i) Determination Solely By Plan Administrator — The Plan Administrator shall have sole authority and discretion to determine the amount of benefits (if any) that are payable under this Section 589.3.

NOTE: Authority cited: Section 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:
1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).
2. Amendment of subsection (a) filed 11-18-2002; operative 12-18-2002. Submitted to OAL for printing only pursuant to Government Code section 21760 (Register 2002, No. 47).

§ 589.4. Funding

(a) Employer Contributions Required — The state, each applicable school employer, and each applicable contracting agency shall make contributions to this Plan in amounts to be fixed and determined by the Board. The Board shall have sole authority and discretion to determine the amount of contributions that must be paid to this Plan by the state, each applicable school employer, and each applicable contracting agency. The Board shall make such determination after receiving advice on such contributions from the Chief Actuary of CalPERS.

(b) Employer Contribution Amount.

(1) The amount of each employer's contributions to this Plan shall be equal to the amount of estimated benefits payable from this Plan for the applicable calendar year for applicable Participants and/or Other Recipients.

(2) The Board may require payment of additional contributions or other amounts owed to this Plan from one or more applicable employers during the applicable calendar year as is necessary to provide benefits under this Plan.

(c) Time and Manner of Employer Contributions — Employer contributions shall be made at the time and in the manner as is fixed by the Board.

(d) Excess Amounts — If, at the end of any calendar year, assets are held in the Replacement Benefit Custodial Fund that are in excess of what was required during the calendar year to pay benefits under the Plan, such excess shall be used only to pay Plan expenses.

(e) Source of Contributions — To the extent practicable and subject to the approval of the CalPERS Chief Actuary, contributions to this Plan shall be made from amounts that otherwise would have been contributed by the employer to CalPERS. Such contributions shall be deposited in the Replacement Benefit Custodial Fund. Under no circumstances shall any amount be transferred from the PERF to or for the use of this Plan.

(f) Invoice for Contributions.

(1) The Plan Administrator shall invoice each applicable contributing employer no later than the fifteenth day of January of each year.

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(2) In addition, the Plan Administrator shall invoice each applicable contributing employer under this Plan as soon as is reasonably practicable in order to obtain the funds needed to pay benefits under this Plan for Members who become Participants after the beginning of the calendar year, and for other appropriate circumstances.

(3) The employer shall promptly pay to CalPERS the amount invoiced.

(4) No benefits shall accrue or be payable to any person under this Plan unless and until payment of the amount invoiced for such person is made by the applicable contributing employer.

(g) Replacement Benefit Custodial Fund.

(1) All contributions under this Plan shall be deposited in the Replacement Benefit Custodial Fund.

(2) The Plan Administrator shall establish, within the Replacement Benefit Custodial Fund, an individual account for each Participant or Other Recipient to hold contributions with respect to her or her benefit under this Plan, pursuant to Section 21758(e) of the Government Code. All benefits paid to such Participant and Other Recipient shall be paid from such accounts.

NOTE: Authority cited: Sections 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:
1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).
2. Amendment of subsection (a) filed 11-18-2002; operative 12-18-2002. Submitted to OAL for printing only pursuant to Government Code section 21760 (Register 2002, No. 47).

§ 589.5. Taxes

(a) Tax Withholding — The Plan Administrator shall have full authority to determine and withhold any and all taxes that are or may be due from all amounts contributed or paid under the Plan (including but not limited to income and payroll taxes), to pay them to the appropriate government agency, and to file and distribute necessary or appropriate tax reports and forms.

(b) Agent for Paying Taxes — The state, each affected school employer, and each affected contracting agency hereby designate the Plan Administrator as its agent for purposes of paying taxes and filing such forms and returns as are required by the Internal Revenue Service and any other tax agency with respect to benefits paid from this plan. The state, each affected school employer, and each affected contracting agency shall execute and file such forms and other documents as are deemed necessary or appropriate by the Plan Administrator in connection with this designation.

(c) Payment of OASDI and HI Taxes by Employers, Participants and Other Recipients.

(1) The state, applicable school employers, applicable contracting agencies, Participants and Other Recipients shall promptly pay to the Plan Administrator

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amounts equal to such OASDI and HI Taxes that the Plan Administrator determines are due from them with respect to benefits paid from this Plan. Amounts paid under this Subsection 589.5(c)(1) shall be held in a special tax escrow account until paid and shall not be held in the Replacement Benefit Custodial Fund.

(2) The Plan Administrator shall determine the amount of OASDI and HI taxes due with respect to any Participant or Other Recipient pursuant to applicable Treasury Regulations, and shall do the following:

(A) invoice the state, the school employer, or contracting agency, as appropriate, for the full amount of the employer taxes due on benefits payable with respect to applicable Participants and Other Recipients from this Plan,

(B) collect the employer OASDI and HI Taxes due from such employer prior to the payment of any benefits under this Plan to the Participant or Other Recipient,

(C) collect the employee taxes due from the Participant or Other Recipient from benefits payable from this Plan prior to payment of any such benefits, and

(D) as agent of the state, school employer, or contracting agency, pay such taxes and file such forms and returns as directed by the Internal Revenue Service.

NOTE: Authority cited: Sections 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:

1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).
2. Amendment of subsections (b), (c)(1), (c)(2)(A) and (c)(2)(D) filed 11-18-2002; operative 12-18-2002. Submitted to OAL for printing only pursuant to Government Code Section 21760 (Register 2002, No. 47).

§ 589.6. Exemption from Process; Assignments Prohibited

(a) Benefit Not Subject to Execution, Process or Assignment — The right of a person to any benefit or other right under this Plan and any money that is set aside to pay such benefits are not subject to execution or any process whatsoever except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable, except as specifically provided in this Plan.

(b) Marital Dissolution or Legal Separation.

(1) The provisions of Subsection 589.6(a) will not apply in the case of any property settlements upon marital dissolution or legal separation which are made in accordance with a domestic relations order (DRO) issued in accordance with state domestic relations law.

(2) If the community property is divided upon the marital dissolution or legal separation of a Member, then the provisions of Sections 21290 through 21298 of the Government Code shall apply to this Plan in the same manner as they apply to CalPERS.

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NOTE: Authority cited: Sections 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:
1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code Section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).

§ 589.7. Administration

(a) Administration by the Board.

(1) The management and control of this Plan is vested in the Board.

(2) This Plan shall be administered by the Board in conformity with its powers and duties set forth in the Government Code commencing with Section 20000, including but not limited to all powers and duties set forth in Chapter 2 of Part 3 of the Government Code.

(3) For determining the administrative powers and responsibilities of the Board, the term "Replacement Benefit Custodial Fund" shall replace reference to the "Public Employees' Retirement Fund" in Article 5 of Chapter 2 of Part 3 of the Government Code. The Board has the exclusive control of the administration and investment of the Replacement Benefit Custodial Fund.

(b) Costs of Administration.

(1) The administrative costs of this Plan shall be paid from (i) earnings on assets of the Replacement Benefit Custodial Fund, (ii) funds credited to accounts of Participants or Other Recipients under this Plan, (iii) forfeitures of amounts that have been credited to such accounts but which are not paid because of death of the Participant or Other Recipient, and (iv) amounts described in Subsection 589.4(d) above.

(2) Administrative costs of this Plan shall not be paid from the PERF.

NOTE: Authority cited: Sections 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:
1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).

§ 589.8. Source of Benefits

(a) Replacement Benefit Custodial Fund — All benefits payable under this Plan shall be paid solely from the Replacement Benefits Custodial Fund.

(b) No Employee Deferrals — No employee contributions or deferrals shall be made or allowed under the Plan at any time. In accordance with Section 415(m), no election to defer compensation under this Plan shall be provided, at any time or in any manner, to any person.

(c) No Use of CalPERS Assets — Except as specifically allowed by governing federal and state law (including but not limited to governing federal and state tax laws), assets used to provide benefits under this Plan shall not be commingled with the monies of the PERF or any other CalPERS retirement trust

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fund or any other qualified plans, nor shall this Plan ever receive or use any assets of the PERF.

NOTE: Authority cited: Sections 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:
1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).

§ 589.9. Miscellaneous

(a) Applicable Law — This Plan shall be governed by the laws of the State of California and applicable federal law.

(b) No Employment Rights — Nothing in this Plan shall be construed as giving to a Participant any right to be retained in the employment of the state, the school employer, or any contracting agency.

(c) Unclaimed Benefits and Accumulations — In any situation where benefits are payable under this Plan, a reasonable search, including mailing of a registered letter to the last known address, shall be made to ascertain the whereabouts of the eligible Participant or other Recipient.

If the person or persons entitled thereafter come forward and request payment and establish such entitlement, the amounts then due, including retroactive payments from the Commencement Date, shall be paid accordingly.

(d) Benefit Limits — Nothing in this Plan shall be construed as creating an entitlement to any benefits greater than what is otherwise provided under the sections of the Government Code that govern the benefits provided by CalPERS determined without regard to the limits of Section 415.

NOTE: Authority cited: Sections 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:
1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).
2. Amendment of subsection (b) filed 11-18-2002; operative 12-18-2002. Submitted to OAL for printing only pursuant to Government Code section 21760 (Register 2002, No. 47).

§ 589.10. Amendment or Termination of Plan

(a) Right to Amend Plan — Notwithstanding any other provision of this Plan, the Board has the right to amend this Plan at any time and at any manner for any reason whatsoever. This right to amend includes, but is not limited to, the right to amend the Plan to reduce or eliminate any or all benefits under the Plan for any or all persons who may be Participants and/or Other Recipients or otherwise may be entitled to benefits under the Plan. Benefits may be reduced or eliminated for any or all persons (including Participants and/or other Recipients) even if they are then entitled to or are receiving benefits under the Plan.

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(b) Right to Terminate Plan — Notwithstanding any other provision of this Plan, the Board has the right to terminate this Plan at any time and for any reason whatsoever. This right to terminate the Plan includes, but is not limited to, the right to terminate any or all benefits under the Plan for any or all persons who may be Participants and/or Other Recipients or otherwise may be entitled to benefits under the Plan. Benefits may be terminated for any or all persons (including Participants and/or other Recipients) even if they are then entitled to or are receiving benefits under the Plan.

(c) Vested Rights — Nothing in this Section 589.10 shall be construed as affecting any vested rights that a Participant or Other Recipient may otherwise have under California law.

(d) Preservation of Tax Status — This Plan shall not in any way jeopardize the tax qualified status of CalPERS. To maintain this qualified status, the Board shall take all necessary or appropriate action, including but not limited to amending this Plan and any rules governing this Plan, solely for the purpose of complying with applicable federal tax laws and regulations.

NOTE: Authority cited: Sections 20120, 20121 and 21760, Government Code. Reference: Section 21757, Government Code.

HISTORY:
1. New section filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c). Submitted to OAL for printing only (Register 2001, No. 4).

ARTICLE 8.1. TERMINATED AGENCY POOL ASSET ALLOCATION STRATEGY

§ 589.11. Terminated Agency Pool — Investment Earnings Allocation.

Assets pooled in the Terminated Agency Pool shall be invested in accordance with the strategic investment policy and/or asset allocation strategy determined by the board for such pooled assets and the Terminated Agency Pool will be credited with income and interest earned on those assets in accordance with such policy and/or strategy.

NOTE: Authority cited: Section 20121, Government Code. Reference: Sections 20174 and 20576, Government Code.

HISTORY:
1. New article 8.1 (section 589.11) and section filed 3-6-2012; operative 4-5-2012 (Register 2012, No. 10).

SUBCHAPTER 2. Social Security (OASDHI) Regulations

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ARTICLE 7. TERMINATION PROCEDURES FOR LOCAL PUBLIC AGENCIES [REPEALED]

ARTICLE 1. GENERAL

§ 590. Location of Offices.

The office of the board is located at 400 P Street, Sacramento, California. Correspondence should be addressed to the Executive Officer, Public Employees' Retirement System, P.O. Box 942709, Sacramento, California 94229-2709.

NOTE: Authority cited for Subchapter 2 (§§ 590 through 598.1,599 and 599.1): Section 22500, Government Code.

HISTORY:
1. New Subchapter 2 (§§ 590 through 598.1, 599 and 599.1) filed 7-6-55, as an emergency; effective upon filing (Register 55, No. 10). (For former Sections 590 through 599, designated as Chapter 3, issued by Director of Finance, see Register 55, No. 6. Repealer filed 7-22-55 as an emergency; effective upon filing.)
2. Amendment filed 4-23-57 as an emergency; effective upon filing (Register 57, No. 7).
3. Amendment filed 12-9-64; effective thirtieth day thereafter (Register 64, No. 24).
4. Amendment filed 4-9-68; effective thirtieth day thereafter (Register 68, No. 15).
5. Change without regulatory effect filed 4-18-88; operative 5-18-88 (Register 88, No. 18).

§ 591. Definitions.

For the purpose of the regulations contained in this chapter, the term "board" means the Board of Administration of the Public Employees' Retirement System; the term "code" means the California Administrative Code; the term "register" means the California Administrative Register; the term "supervisor" means the agency or individual designated by the Governor to supervise the conduct of divisions and referendums as provided by Part 4, Division 5 of Title 2 of the Government Code; the term "member" with respect to any retirement system shall include in addition to members of the system any

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nonmember in a position in which he may elect membership for purposes of division of the system; and the term "federal system" means the Old-Age, Survivors, Disability, and Health Insurance provisions of the Social Security Act.

NOTE: Additional authority cited: Section 22151, Government Code.

HISTORY:
1. Amendment filed 6-22-59 as an emergency; effective upon filing (Register 59, No. 10).
2. Certificate of Compliance—Section 11422.1, Government Code; filed 8-20-59 (Register 59, No. 14).
3. Amendment filed 4-9-68; effective thirtieth day thereafter (Register 68, No. 15).

§ 592. Tenses, Gender and Number.

For the purpose of the regulations contained in this chapter, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

ARTICLE 2. REFERENDUM PROCEDURES FOR LOCAL PUBLIC AGENCIES

§ 593. Adoption of Resolution.

Any public agency, as defined in Sections 22009, et seq., of the Government Code, except the State, desiring to hold a referendum, shall first adopt a resolution or ordinance to do so. Such resolution or ordinance shall specify who are the employees eligible to vote in such referendum, and shall designate by name and title the individual who will conduct the referendum. Such resolution or ordinance shall establish the effective date upon and after which services performed for such public agency shall be covered under the agreement under the provisions of Section 218 of the Social Security Act. Such resolution or ordinance shall include a request to the board for authorization to hold such referendum.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 22300, Government Code.

HISTORY:
1. Amendment filed 12-9-64; effective thirtieth day thereafter (Register 64, No. 24).
2. Amendment filed 4-9-68; effective thirtieth day thereafter (Register 68, No. 15).
3. Amendment filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).
4. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 594. Date of Referendum.

Upon receipt of the board's authorization to hold a referendum, the public agency shall set a date upon which its eligible employees shall vote in such

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referendum. This date may be set by the individual who will conduct the referendum, on behalf of such public agency.

§ 595. Submission of Proposed Notice and Procedure.

The public agency shall prepare a notice of referendum, specifying, among other matters, the time and place for voting. Such notice, together with a proposed plan of procedure in the conduct of such referendum, shall be submitted to the supervisor for approval.

§ 596. Notice of Referendum.

After approval by the supervisor of the notice and plan of referendum, the public agency shall give such notice to all employees eligible to vote in the referendum. Notice of referendum shall be given by either personal service or first class mail, and in addition thereto, by posting such notice on all bulletin boards maintained by such agency to give notices to employees.

§ 597. Referendum Ballots.

Ballots shall be furnished to all employees eligible to vote in such referendum, and only to such employees. The ballots so furnished shall contain a statement of the question to be voted upon in the referendum. Such question shall be in the words and figures contained in the notice of referendum hereinabove mentioned. Provision shall be made for an indication by the voter of a vote in either the affirmative or negative. The ballots shall be counted by or under the supervision of the individual who conducts the referendum.

§ 598. Certification of Referendum.

(a) Upon completion thereof, the individual who conducts the referendum shall, if such be the facts, certify to the supervisor that:

(1) A referendum by secret written ballot was held on question of whether service in positions covered by the retirement system of the public agency should be excluded from or included under the agreement under the provisions of Section 218 of Title II of the Social Security Act;

(2) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(3) Not less than 90 days' notice of such referendum was given to all such employees;

(4) Such referendum was conducted by him;

(5) A majority of the eligible employees voted in favor of including service in such positions under an agreement under said Section 218;

(6) That with respect to such referendum the conditions specified in Section 218(d) of the Social Security Act have been met, and that the protection afforded employees in positions covered by the retirement system as to which such referendum has been had, as well as those receiving periodic benefits under such

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retirement system, will not be impaired as a result of making an agreement, bringing such employees under social security in accordance with the declared policy of the Congress set forth in Section 218(d) of the Social Security Act.

(b) Accompanying such certification, the individual who conducted the referendum shall forward to the supervisor:

(1) His affidavit of service and posting of the notice of referendum;

(2) A certified copy of the notice of referendum;

(3) All ballots cast in the referendum.

(c) Certification to Governor. The supervisor shall thereupon certify to the Governor or such other state official designated by the Governor that such referendum has been conducted and completed in full accordance with law and these regulations.

(d) Destruction of Referendum Ballots. The ballots cast in the referendum shall be forwarded by the supervisor to the office of the board, where such ballots shall be retained for a period of 30 days following acceptance by the Department of Health and Human Services of the modification including in coverage under the federal-state agreement the retirement system coverage group with respect to which the referendum was held. At the expiration of the said 30-day period, the ballots shall be destroyed.

NOTE: Authority cited: Section 22500, Government Code. Reference: Section 22300, Government Code.

HISTORY:
1. New subsection (d) filed 6-29-60; effective thirtieth day thereafter (Register 60, No. 15).
2. Amendment filed 7-18-61 as an emergency; effective on filing (Register 61, No. 14).
3. Certificate of Compliance-Sec. 11422.1, Gov. Code, filed 10-17-61 (Register 61, No. 21).
4. Amendment of subsection (d) filed 2-11-81; effective thirtieth day thereafter (Register 81, No. 7).

§ 598.1. Ratification.

All action taken by any public agency in accordance with law and these regulations, but taken before the formal adoption hereof, is hereby ratified, approved and confirmed.

§ 598.50. Repealed.

NOTE: Authority cited for Article 2.5: Sections 22151 and 22500, Government Code.

HISTORY:
1. New Article 2.5 (§§ 598.50 through 598.54) filed 10-14-57; effective thirtieth day thereafter (Register 57, No. 18).
2. Repealer of Article 2.5 (§§ 598.50 through 598.54) filed 7-18-61 as an emergency; effective upon filing (Register 61, No. 14).
3. Certificate of Compliance-Sec. 11422.1, Gov. Code, filed 10-17-61 (Register 61, No. 21).

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ARTICLE 3. DIVISION OF RETIREMENT SYSTEMS

§ 598.60. Authorization for Division.

The governing body of any public agency, as defined in Sections 22009, et seq., of the Government Code, except the State, may divide a retirement system established by it into two parts in accordance with these rules, one part composed of positions of members of such system who desire coverage under the Federal System, and the other composed of positions of members who do not desire such coverage.

NOTE: Authority cited for new Article 3 (Sections 598.60 through 598.69, inclusive): Section 20121, Government Code. Reference: Section 22150, Government Code.

HISTORY:
1. New Article 3 (Sections 598.60 through 598.69) filed 6-22-59 as an emergency; effective upon filing (Register 59, No. 10). (For former Article 3 (Sections 599 through 599.3), see Registers 55, No. 16, and 57, No. 18. Repealer filed 6-22-59 as an emergency; designated effective on filing.)
2. Certificate of Compliance—Section 11422.1, Government Code; filed 8-20-59 (Register 59, No. 14).
3. Amendment filed 4-9-68; effective thirtieth day thereafter (Register 68, No. 15).
4. Amendment filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).
5. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 598.61. Repealed.

HISTORY:
1. Repealer filed 6-26-63 as an emergency; effective upon filing (Register 63, No. 11).
2. Certificate of Compliance-Section 11422.1, Government Code, filed 8-21-63 (Register 63, No. 14).

§ 598.62. Resolution Requesting Division.

Authorization shall be requested by a resolution adopted by the governing body or such other officer or body as may be authorized or directed by law to divide the system. The resolution shall include: (1) a designation of the members, if any, who are excluded from participation in the division; (2) a designation by name and title of the local division officer who will conduct the division; and (3) the effective date on and after which services of members will be included in the federal system. The resolution shall provide for reimbursement of estimated costs incurred by the State in connection with the division and shall fix the date for the division or authorize the local division officer to fix such date. Two copies of the resolution properly certified shall be filed with the board.

NOTE: Additional authority cited: Section 22150, Government Code.

HISTORY:
1. Amendment filed 6-26-63 as an emergency; effective upon filing (Register 63, No. 11).

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2. Certificate of Compliance—Section 11422.1, Government Code, filed 8-21-63 (Register 63, No. 14).

§ 598.63. Executive Officer's Authorization.

The Executive Officer, upon the filing of a resolution complying with these regulations, shall authorize a division of the retirement system and shall designate the State division supervisor to supervise the conduct of the division.

NOTE: Additional authority cited: Section 22150, Government Code.

HISTORY:
1. Amendment filed 6-26-63 as an emergency; effective upon filing (Register 63, No. 11).
2. Certificate of Compliance-Section 11422.1, Government Code, filed 8-21-63 (Register 63, No. 14).

§ 598.64. Notice of Division.

The local division officer shall, upon issuance of the authorization, prepare a notice of the division which shall contain among other matters the date of the division and an explanation of the modification if any to be made in the retirement system as it applies to public agency employees. He shall submit such notice together with the proposed plan of procedure to the state division supervisor for approval. The approved notice shall be given not less than 90 days prior to the date set for the division to all persons who are eligible members of the system. Such notice shall also be given to each person who becomes an eligible member after the notice date to and including the date fixed for the division. Notice shall be given by personal delivery or by first-class mail and must be posted on all bulletin boards maintained by the agency to give notices to employees.

§ 598.65. Division Election Form.

Each member of the retirement system on the division date shall be supplied with a division election form devised or approved by the executive officer, Public Employees' Retirement System, containing provisions for an election by the member whether he desires to be or not to be included in the part of the system to be covered under the Federal System. If supplied by mail, the form shall be sent by first-class mail. Failure to execute and return a form indicating an election to be included in that part of the system to be covered under the federal system on the division date or within 10 days or such longer period thereafter as may be prescribed by the executive officer, shall be deemed an election not to be included in such part, unless the board finds that the failure was due to circumstances beyond the control of the member.

HISTORY:
1. Amendment filed 4-9-68; effective thirtieth day hereafter (Register 68, No. 15).
2. Amendment filed 11-21-75 as an emergency; effective upon filing (Register 75, No. 47).
3. Certificate of Compliance filed 3-2-76 (Register 76, No. 10).

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§ 598.66. Certificate of Conduct of Division.

Upon completion of division procedures in compliance with these rules, the local division officer shall so certify to the state division supervisor. He shall forward to the supervisor a certified list of the members eligible to participate in the division and all election forms properly executed and returned by eligible members in the division.

§ 598.67. Division Supervisor's Certificate.

The supervisor of the division, upon receipt thereof and upon finding that the division was conducted in compliance with applicable law and these rules, shall approve the list and election forms and file the same in the office of the board where they shall be maintained as a permanent record. He shall thereupon certify to the Governor or to any such other State official designated by the Governor to make the certification required in Section 218(d)(6) of the Federal Social Security Act with respect to the division that:

(a) An opportunity to vote by written ballot on the question whether they wish to be covered under the federal system was given to all individuals who were members of the system at the time the vote was held.

(b) Not less than 90 days' notice was given to all individuals who were members of such system on the date the notice was issued.

(c) The vote was conducted under the supervision of the division supervisor.

(d) All written election forms returned and approved by the supervisor, together with a list of the members eligible to participate in the division, have been filed in the office of the board.

NOTE: Additional authority cited: Section 22150, Government Code.

HISTORY:
1. Amendment filed 6-26-63 as an emergency; effective upon filing (Register 63, No. 11).
2. Certificate of Compliance-Section 11422.1, Government Code, filed 8-21-63 (Register 63, No. 14).

§ 598.68. Application and Agreement.

When the division supervisor's certificates have been filed, the governing body of the public agency may submit an application and agreement to the board for coverage under the federal system of the members of the system established by these procedures composed of the members electing such coverage.

§ 598.69. Repealed.

HISTORY:
1. Repealer filed 6-26-63 as an emergency; effective upon filing (Register 63, No. 11).
2. Certificate of Compliance-Section 11422.1, Government Code, filed 8-21-63 (Register 63, No. 14).

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§ 598.75. Repealed.

NOTE: Authority cited for Article 4: Sections 22151 and 22500, Government Code.

HISTORY:
1. Repealer of Article 4 (Sections 598.75 through 598.80) filed 12-9-64; effective thirtieth day thereafter (Register 64, No. 24). For prior history, see Register 61, No. 21.

§ 598.81. Repealed.

NOTE: Authority cited for Article 4.5 (Sections 598.81 through 598.86), Sections 22151, 22156, 22500, Government Code. Additional authority cited: Section 20120, Government Code.

HISTORY:
1. New Article 4.5 (Sections 598.81 through 598.86) filed 1-4-72 as an emergency; effective upon filing (Register 72, No. 2).
2. Certificate of Compliance filed 5-2-72 (Register 72, No. 19).
3. Repealer of Article 4.5 (Sections 598.81 through 598.86) filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).

§ 598.90. Repealed.

NOTE: Authority cited for new Article 5 (Sections 598.90 through 598.93): Sections 22151 and 22500, Government Code.

HISTORY:
1. New Article 5 (Sections 598.90 through 598.93) filed 7-30-59 as an emergency; effective upon filing (Register 59, No. 13). Certificate of Compliance filed 8-20-59.
2. Repealer of Article 5 (§§ 598.90-598.93) filed 7-18-61 as an emergency; effective on filing (Register 61, No. 14).
3. Certificate of Compliance-Sec. 11422.1, Gov. Code, filed 10-17-61 (Register 61, No. 21).

ARTICLE 6. TRANSFER OF MEMBERS OF DIVIDED SYSTEM

§ 599. Authorization for Transfer.

Any public agency which has divided a retirement system may request a transfer of members from the system composed of positions of members not desiring coverage under the federal system to the system composed of members desiring such coverage pursuant to this article. Such request must include both the members of the system who elected not to be covered and those nonmembers having an option to be members, who either elected not to be covered or who had no right of election under the law at the time of the division.

NOTE: Authority cited for Article 6 (Sections 599 through 599.5), Sections 22155 and 22500, Government Code.

HISTORY:
1. New Article 6 (Sections 599 through 599.5) filed 8-19-59 as an emergency; effective upon filing (Register 59, No. 14).
2. Certificate of Compliance—Section 11422.1, Gov. Code, for Article 6 (Sections 599 through 599.5) filed 10-13-59 (Register 59, No. 18).
3. Amendment filed 2-14-62; effective thirtieth day thereafter (Register 62, No. 3).

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4. Change without regulatory effect amending Note filed 9-22-2011 pursuant to section 100, title 1, California Code of Regulations (Register 2011, No. 38).

§ 599.1. Resolution Requesting Transfer-Contents.

The governing body of the public agency shall adopt and file with the board a resolution requesting the Board of Administration to execute a modification to the federal-state agreement to accomplish such transfer. The resolution shall specify a date before which members desiring to transfer must file their written requests with the State.

§ 599.2. Resolution Requesting Transfer-Time for Filing.

The resolution of the governing body must be filed before the first day of the twenty-fourth month following the execution by the appropriate federal official of the modification including the employees of the agency in the Federal System, or December 1, 1969, whichever is later, and may not specify a date for filing requests earlier than 60 days following execution of such modification, or 15 days following the filing of the resolution, whichever is later.

HISTORY:
1. Amendment filed 10-17-61; effective thirtieth day thereafter (Register 61, No. 21).
2. Amendment filed 9-8-65 as an emergency; effective upon filing (Register 65, No. 17).
3. Certificate of Compliance-Sec. 11422.1, Gov. Code, filed 10-22-65 (Register 65, No. 20).
4. Amendment filed 4-9-68; effective thirtieth day thereafter (Register 68, No. 15).

§ 599.3. Notice of Right to Transfer.

The governing body shall give or cause to be given, on or before the filing of the resolution, notice to eligible members of the right to request a transfer and of the date by which such requests must be filed in the office of the board and shall make available to such members forms devised or approved by the executive officer upon which such requests may be filed.

§ 599.4. Member Request for Transfer.

Any member of the part of a divided retirement system composed of positions of members not desiring coverage with respect to which a resolution has been filed in accordance with this article may file a written request with the Board of Administration that his position be transferred to the part of the system composed of members desiring coverage. Such request shall be on a form devised for the purpose and approved by the executive officer; provided, however, that the executive officer shall accept the filing of any writing signed by the member which clearly states his intention to transfer. A member's request for transfer must be received in the office of the board on or before the date specified in the resolution for such filing. Requests duly filed with the board shall be maintained as a permanent record. The executive officer shall provide the agency with the names of the persons requesting transfer.

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§ 599.5. Modification Providing for Transfer.

Upon the filing of a resolution in accordance with this article and expiration of the period for filing of member requests, as fixed by the resolution, the executive officer or, in his absence, the assistant executive officer, shall execute on behalf of the board and deliver to the Secretary of Health and Human Services, a modification to the agreement to include members so requesting in the federal system.

NOTE: Authority cited: Section 22500, Government Code. Reference: Section 22155, Government Code.

HISTORY:
1. Amendment filed 2-11-81; effective thirtieth day thereafter (Register 81, No. 7).

§ 599.6. Transfer of School Members.

HISTORY:
1. New section filed 7-18-61 as an emergency; effective on filing (Register 61, No. 14).
2. Certificate of Compliance-Sec. 11422.1, Gov. Code, filed 10-17-61 (Register 61, No. 21).
3. Amendment filed 8-16-66 as an emergency; effective upon filing (Register 66, No. 27).
4. Certificate of Compliance-Section 11422.1, Government Code, filed 10-26-66 (Register 66, No. 37).
5. Repealer filed 4-9-68; effective thirtieth day thereafter (Register 68, No. 15).

§ 599.7. Repealed.

HISTORY:
1. New section filed 9-8-65 as an emergency; effective upon filing (Register 65, No. 17).
2. Certificate of Compliance-Sec. 11422.1, Gov. Code, filed 10-22-65 (Register 65, No. 20).
3. Repealer filed 4-9-68; effective thirtieth day thereafter (Register 68, No. 15).

ARTICLE 7. TERMINATION PROCEDURES FOR LOCAL PUBLIC AGENCIES [REPEALED]

HISTORY:
1. Change without regulatory effect repealing article 7 (sections 599.50-599.55) pursuant to section 100, title 1, California Code of Regulations (Register 86, No. 52). For prior history, see Register 76, No. 32; Register 78, No. 21; and Register 81, No. 7.

SUBCHAPTER 3. Public Employees' Medical And Hospital Care Act Regulations

ARTICLE 1. DEFINITIONS, COVERAGE, ENROLLMENT, CONVERSION, MINIMUM STANDARDS, ALTERNATIVE BENEFIT PLANS, CONTRIBUTIONS, CONTINGENCY RESERVE FUND, CONTRACTING AGENCY PARTICIPATION AND MEDICARE PART B

Section

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599.503. Effective Date of Enrollment
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ARTICLE 1. DEFINITIONS, COVERAGE, ENROLLMENT, CONVERSION, MINIMUM STANDARDS, ALTERNATIVE BENEFIT PLANS, CONTRIBUTIONS, CONTINGENCY RESERVE FUND, CONTRACTING AGENCY PARTICIPATION AND MEDICARE PART B

§ 599.500. Definitions.

For the purposes of this subchapter:

(a) Terms used in this subchapter that are defined by the Public Employees' Medical and Hospital Care Act (Title 2, Division 5, Part 5 (commencing with Section 22750) of the Government Code) shall have the meanings therein set forth.

(b) "Employing office" means any office of the state or contracting agency to which jurisdiction and responsibility for health benefits action for the employee concerned have been delegated. For annuitants, whether or not the annuitant is also an employee, the Health Benefits Division of the Public Employees' Retirement System is the employing office.

(c) "Payroll office" means either the office of the State Controller for agencies participating under the Uniform Payroll System, or the employing office for agencies not participating under the Uniform Payroll System, irrespective of whether or not salary warrants are issued by the State Controller.

(d) "Time." Whenever in this subchapter a time is stated in which an act is to be done, the time is computed by excluding the first day and including the last day. If the last day is a holiday, it is also excluded.

(e) "Annuity period" means the period for which a single installment of a retirement allowance or annuity is customarily paid for annuitants.

(f) "Enroll" means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing to be enrolled in a health benefits plan.

(g) "Enrolled" means to be enrolled in a health benefits plan approved by the Board under this subchapter.

(h) "Register not to enroll" means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing not to be enrolled in a health benefits plan.

(i) "Cancellation" is the act, by an enrolled employee or annuitant who is eligible to continue enrollment, of filing a Health Benefits Plan Enrollment Form, terminating enrollment in a health benefits plan.

(j) "Administrative action" is the completion or approval, by the Health Benefits Division, of a Health Benefits Plan Enrollment Form terminating or changing the enrollment of an employee, annuitant, or family member in accordance with the provisions of this subchapter.

(k) "Eligible" means eligible under the law and this subchapter to be enrolled.

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(*l*) "Retirement System" means the Public Employees' Retirement System, the State Teachers' Retirement System, the Legislators' Retirement System, or the Judges' Retirement System, as the case may be, under which a retired person has acquired the status of "annuitant."

(m) Tenses and Number. The present tense includes the past and future, and the future the present; the singular includes the plural and the plural the singular.

(n) A "child," as described in Government Code section 22775, means an adopted, step, or recognized natural child until attainment of age 26, unless the child is disabled as described in section 599.500, subdivision (p).

(o) In addition to a "child" as described in Government Code section 22775, "family member" also includes any child for whom the employee or annuitant has assumed a parent-child relationship, in lieu of a parent-child relationship described in subdivision (n), as indicated by intentional assumption of parental status, or assumption of parental duties by the employee or annuitant, as certified by the employee or annuitant at the time of enrollment of the child, and annually thereafter up to the age of 26 unless the child is disabled as described in section 599.500, subdivision (p). This section should not be construed to include foster children.

(p) "Disabled child," means a child, as described in Government Code section 22775 and section 599.500, subdivision (n) or (o), who at the time of attaining age 26, is incapable of self-support because of a physical or mental disability which existed continuously from a date prior to attainment of age 26 and who is enrolled pursuant to section 599.501, subdivisions (f) and (g), until termination of such incapacity.

(q) Meanings of terms related to Medicare are as follows:

"Medicare" means the Health Insurance For The Aged provided under Title XVIII of the Social Security Act; "Part A" means Hospital Insurance as defined in Title XVIII of the Social Security Act; and "Part B" means Medical Insurance as defined in Title XVIII of the Social Security Act.

(r) "Supplemental Plan" means a health benefits plan providing supplemental benefits for persons enrolled under Medicare Parts A and B.

(s) "Health benefit(s) plan," as defined in section 22777 of the Government Code, or "plan" includes any benefit design and premium rate structure offered by the Board to employees, annuitants, and family members through contracts with carriers or self-funded plans administered by the Board pursuant to Sections 22793, 22850 and 22853 of the Government Code. "Health benefit(s) plan" includes basic or supplemental plans.

(t) "Basic Plan" means a health benefit(s) plan providing benefits for employees, annuitants, and family members not enrolled in a supplemental plan.

(u) "Conversion plan" means a nongroup contract offered by the carrier as its standard individual membership plan.

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(v) "Control Period" means a period from January 1 through June 30 or July 1 through December 31.

(w) "Alternative benefit plan" means a health benefits plan approved, or contracted for, by the Board exclusively for employees or annuitants of contracting agencies pursuant to Section 22850(f)(2) of the Government Code.

(x) "Risk adjustment" means an actuarial tool used to calibrate premiums paid to health benefits plans or carriers based on geographical differences in the cost of health care and the relative differences in the health risk characteristics of employees, annuitants, and family members enrolled in each plan. Risk adjustment establishes premiums, in part, by assuming an equal distribution of health risk among health benefits plans in order to avoid penalizing employees, annuitants, and family members for enrolling in a health benefits plan with higher than average health risk characteristics.

(y) "Risk assessment" means an objective determination of whether an individual employee, annuitant, or family member or group of employees, annuitants, and family members represents a health risk that is reasonably close to the population average and, if not, of quantifying the relative deviation from the average.

(z) "Risk Adjusted Premium," means the actuarially calculated premium utilizing risk adjustment.

NOTE: Authority cited: Sections 22760, 22775, 22777, 22778, 22794, 22796, 22800, 22830, 22831, 22846(a), 22850, 22860 and 22864, Government Code. Reference: Sections 22750-22944, Government Code.

HISTORY:

1. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24). For prior history, see Register 74, No. 36.
2. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
3. Amendment of subsections (j) and (o)-(s) filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
4. New subsection (t) filed 4-13-2004 as an emergency; operative 4-13-2004 (Register 2004, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-11-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 4-13-2004 order transmitted to OAL 8-3-2004 and filed 9-15-2004 (Register 2004, No. 38).
6. Change without regulatory effect amending subsections (a), (n), (q) and (t) and amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).
7. Amendment of subchapter heading, new article 1 heading and amendment of first paragraph and subsection (a) filed 1-26-2007; operative 1-26-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 4).
8. Amendment of subsection (n), new subsections (o) and (p) and subsection relettering filed 2-15-2011; operative 2-15-2011 pursuant to Government Code section 11343.4 (Register 2011, No. 7).
9. Amendment of subsection (s), new subsection (t), subsection relettering and amendment of Note filed 5-15-2013; operative 7-1-2013 (Register 2013, No. 20).
10. New subsections (x)–(z) and amendment of Note filed 7-24-2013; operative 7-24-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 30).

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§ 599.501. Coverage.

(a) Each employee or annuitant other than those excluded by subsections (b) or (c) below, is eligible to be enrolled in a health benefits plan at the times and under the conditions prescribed in this subchapter, provided however that no person shall be enrolled in a supplemental plan who at the time of enrollment is not also enrolled under Part A and Part B of Medicare. An eligible employee or annuitant enrolled in both Parts A and B of Medicare, or who has a family member who is so enrolled, may be enrolled in a basic plan contracted for by the Board with respect to persons not enrolled in Parts A and B, and in a supplemental plan with respect to all persons enrolled in Parts A and B

(b) Employees in the following groups are not eligible:

(1) Employees serving under:

(A) Intermittent appointments except where employment is on a permanent basis.

(B) Appointments to positions for which contributions are made by the employer to health and welfare programs providing prepaid hospital and medical care in accordance with Sections 14876 and 18853.5 of the Government Code, or Section 1705.5 of the Harbors and Navigation Code, or other similar provisions; or appointments to positions for which salary payment is made in lieu of payment to health and welfare programs providing prepaid hospital and medical care; or

(C) Appointments to positions not exceeding six months duration unless the employee is enrolled prior to beginning service under, such appointment or unless the appointment is in lieu of a permanent appointment pending establishment of and certification from a list from which the position may be filled.

(2) Inmates of institutions who are allowed compensation for such services as they are able to perform.

(3) Persons employed as student assistants and graduate assistants and as student aids in special schools in the State Department of Education and Vocational Rehabilitation, and the public schools of the State.

(4) Blind persons and other physically handicapped persons employed by the California Industries for the Blind, or in opportunity centers for the blind by the Department of Education who are not civil service employees.

(5) Persons serving at a State college solely as a teacher in any summer session or intersession for which compensation is specifically attributable to such service in summer session or intersession.

(6) Any member of the Veterans' Home of California who is employed by said Home, or by the Post Exchange thereof or in other Post Fund activities, except as an employee of a contracting agency.

(7) Any employee paid wholly from funds not controlled by the employer or from revolving or similar funds from which regular payroll deduction of the insurance premium cannot be made.

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(8) Employees of a contracting agency who are not members of the Public Employees' Retirement System or the State Teachers' Retirement System.

(c) Annuitant whose monthly allowance is insufficient to pay withholdings required under the lowest cost plan available is not eligible.

(d) Annuitants whose effective date of retirement is more than 120 days after their date of separation from employment are not eligible.

(e) Annuitants who were not enrolled at the time of separation from employment are not eligible.

(f) A disabled child as described in section 599.500, subdivision (p), who is age 26 or over is to be enrolled at the time of the initial enrollment of the employee or annuitant provided that satisfactory evidence of such disability is filed with the Board within 60 days of the initial enrollment.

(g) A disabled child, as described in section 599.500, subdivision (p), who attains age 26 is to be continued in enrollment if he or she is enrolled at the time he or she attains age 26, provided that satisfactory evidence of such disability is filed with the Board during the period commencing 60 days before and ending 60 days after the child's 26th birthday.

(h) The Board shall make determinations of the applicability of this section to specific employees or annuitants, or groups of employees or annuitants.

(i) A family member who is not acceptable for enrollment under the underwriting standards of the carrier where application for enrollment is under Section 599.502(c) or (f)(1)(B) is ineligible to be enrolled except during an open enrollment period.

NOTE: Authority cited: Sections 22794, 22796, 22800, 22830, 22831, 22846(a) and 22860, Government Code. Reference: Sections 22760(h), 22775, 22800, 22819, 22830, 22831, 22832 and 22837, Government Code.

HISTORY:

1. Amendment of subsections (e)(2) and (f) filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32). For prior history, see Register 75, No. 49.
2. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
3. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
4. Amendment filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
5. Change without regulatory effect amending subsection (c) and Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).
6. Amendment of subsections (f) and (g) filed 2-15-2011; operative 2-15-2011 pursuant to Government Code section 11343.4 (Register 2011, No. 7).
7. Amendment of subsection (a) filed 5-15-2013; operative 7-1-2013 (Register 2013, No. 20).

§ 599.502. Enrollment.

(a) Type of Enrollment. An eligible employee or annuitant may enroll for self alone, self and one family member or self and two or more family members. If he or she enrolls for other than self alone, he or she shall enroll all eligible family members. All eligible family members shall be enrolled under the

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enrollment of only one employee or annuitant. The following family members are not required to be enrolled:

(1) A family member covered under another basic group plan that is not contracted for or approved by the Board;

(2) A family member who is a spouse not living in the member's household; or

(3) A family member who is a child who has attained the age of 18; or

(4) A family member who is a member of the armed forces.

(5) A plan shall not be liable for benefits for a family member, other than as provided in Sections 599.502(f)(1)(E) and 599.503(d), nor shall an employee or annuitant be obligated for an increased premium or charge because of such member unless he or she has been included by name in the employee's or annuitant's enrollment.

(6) Upon discovery that a family member required to be enrolled has not been so included, except as provided in Sections 599.502(f)(1)(E) and 599.503(d), the employee or annuitant shall be given notice that all coverage of family members will cease on the last day of the following month unless he or she has changed his or her enrollment to include such family members prior to the cessation of such coverage.

(b) Initial Enrollment.

(1) An eligible employee shall enroll or register not to enroll no later than his or her 60th calendar day of employment or reemployment following a break in service of at least one full monthly pay period.

(2) A permanent intermittent employee shall enroll or register not to enroll no later than 60 calendar days following the end of a control period in which he or she received credit for a minimum of 480 paid hours.

(3) An annuitant or an employee who is brought within coverage of the Act shall enroll or register not to enroll within sixty days of notice of eligibility.

(4) An employee who is on leave of absence without compensation, temporary disability compensation whether or not supplemented by sick leave or vacation, or Non-industrial Disability Leave, or Industrial Disability Leave, or other non-pay status, may not enroll while in such status but shall enroll or register not to enroll within 60 days of his or her return to pay status, if he or she would otherwise have been eligible to enroll during the nonpay status.

(5) An employee of a contracting agency which has filed an election to be subject to the Public Employees' Medical and Hospital Care Act, including an employee of such agency who was on leave of absence or other non-pay status and was enrolled in a health benefits plan of the agency, but shall enroll or register not to enroll no later than the 60th calendar day following such agency's effective date of participation under the Act.

(6) An annuitant who retired while an employee of a contracting agency which has elected to be subject to the Public Employees' Medical and Hospital Care Act, and whose retirement is effective on or prior to the effective date of

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such election, may enroll no later than the 60th calendar day following notification of eligibility.

(7) An employee whose enrollment did not become effective under the provisions of Section 599.503(a) because of failure to accomplish premium deductions may enroll within 60 calendar days of notification of right to enroll.

(c) Health Statement Enrollment:

An eligible employee may enroll at any time while in an employment in which he or she was eligible to but did not enroll at the time specified in this subsection, and an eligible annuitant may enroll if at the time of enrollment he or she presents a certification from the carrier of the plan that his or her enrollment is acceptable under the underwriting standards of the carrier.

(d) Re-enrollment:

(1) An employee whose enrollment terminated under Section 599.506(a)(5) may enroll within 60 calendar days following the end of a control period in which he or she received credit for a minimum of 480 paid hours.

(2) An employee whose enrollment terminated because of administrative failure to continue payroll deductions under Section 599.506(a)(1)(B) may enroll within 60 calendar days of receipt of notification of termination.

(3) A person whose enrollment terminated upon separation from employment and who is retired with an effective date no later than 120 days following the date of separation, may enroll as an annuitant within 60 calendar days of receipt of notification of eligibility or during any open enrollment period.

(4) An annuitant whose enrollment terminated under Section 599.506(d) because his or her retirement allowance was not sufficient to pay the withholdings of any plan in which he or she was eligible to be enrolled may re-enroll within 60 calendar days of notification that his or her retirement allowance is sufficient to pay the withholdings of a plan in which he or she is eligible to be enrolled.

(e) The Board will, at least once every three years, provide every employee and annuitant previously enrolled or eligible to enroll or continue enrollment an opportunity for enrollment, and every enrolled employee and annuitant an opportunity for change of enrollment, on such terms and conditions as it may prescribe.

(f) Change of Enrollment.

(1) (A) An enrolled employee or annuitant may, prior to, at the time of, or within 60 calendar days after acquiring his or her first eligible family member required to be enrolled, change his or her enrollment to include all family members required to be enrolled.

(B) An enrolled employee or annuitant may change his or her enrollment to include all eligible family members required to be enrolled who are acceptable for enrollment under underwriting standards of the carrier if at the time of such change he or she presents a certification of such acceptability from the carrier of

the plan in which he or she is enrolled or if such change of enrollment is made during an open enrollment period.

(C) A family member who is not enrolled because of other group coverage or because such person is a spouse not living in the employee's or annuitant's household may not thereafter be enrolled as a family member except during an open enrollment period or pursuant to the carrier's certification of acceptability under its underwriting standards.

(D) A family member who is a child who has attained the age of 18 and who is not enrolled may not be enrolled except upon return from military service as provided in Section 599.502(f)(2), or pursuant to the carrier's certification of acceptability under underwriting standards, or during an open enrollment period.

(E) Notwithstanding any other provision of this subchapter, an employee or annuitant enrolled for self only may enroll a newborn or adopted child provided application for enrollment is received within 60 calendar days of the date of birth or the date physical custody was obtained. The coverage of a newborn or adopted child of an employee or annuitant enrolled for self only begins on the date of birth or the date physical custody is obtained and ends on the last day of that month unless an application to enroll that child is received.

(2) An employee or annuitant may at any time change his or her enrollment from self and family to self alone, or delete an eligible family member who is a child who has attained the age of 18 or enters military service. An employee or annuitant may decrease "family member" enrollment from self and two or more to self and one family member on or after the day on which the last family member in excess of one:

(A) ceases to be a family member;

(B) becomes enrolled in another basic group plan; or

(C) in case of a spouse, ceases to live in his or her household or enters military service.

(D) A spouse whose enrollment is terminated on the basis of ceasing to live in the household may not be enrolled thereafter except during an open enrollment period or pursuant to the carrier's certification of acceptability under its underwriting standards.

(E) A family member who is a spouse or a child who was deleted from an employee's or annuitant's enrollment upon entering military service or was in military service at the time of initial enrollment or at the time he or she became a family member may be enrolled upon return from military service.

(3) Except as described in 599.506(f), when a mandatory change of enrollment results in a retroactive cancellation or deletion of enrollment and creates a difference in premium based on the date a family member became ineligible for coverage and the date an employee or annuitant changed his or her enrollment to delete the ineligible family member, the employer and employee or annuitant may receive a refund. The amount of the refund shall not exceed those excess premiums paid for a period of up to six months prior to the date on which

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the action is processed and recorded, pursuant to the employee's or annuitant's request for retroactive cancellation or deletion of the ineligible family member.

(4) An employee or annuitant who is not enrolled, but is covered under the Public Employees' Medical and Hospital Care Act and this subchapter by enrollment of a spouse, may enroll in the same plan as was the spouse for self alone or self and eligible family members within 60 calendar days after termination of the spouse's enrollment. An employee who is not enrolled, but is covered by the enrollment of a parent, may enroll in any plan available within 60 calendar days after the termination of coverage as a family member. An employee or annuitant who is covered by enrollment of another under this subchapter may enroll in the same plan for self alone or self and eligible family members within 60 calendar days after the effective date of a change terminating his or her enrollment.

(5) An employee who is enrolled as an annuitant and whose status as an annuitant terminates, may enroll in the same plan under which he or she was covered as an annuitant, in a manner which will continue coverage.

(6) (A) An employee or annuitant who is enrolled in a plan with a restricted geographic service area and who moves, including all enrolled family members, or changes employment address may, within 31 calendar days before the move and ending 60 calendar days after the move, enroll in another health benefits plan.

(B) An employee or annuitant who is enrolled in a plan with a restricted geographic service area and who moves, and whose enrolled family members do not move, may, within 31 calendar days before the move and ending 60 calendar days after the move, enroll in another health benefits plan.

(C) An employee or annuitant who is enrolled in a plan with a restricted geographic service area and whose enrolled family members move, may within 31 calendar days before the move and ending 60 calendar days after the move, enroll in another health benefits plan.

(D) An employee or annuitant who moves into, or commences employment within, the service area of a plan with a restricted geographic service area may change his or her enrollment to that plan within the period beginning 31 calendar days before and ending 60 calendar days after the move.

(E) An employee or annuitant enrolled in a supplemental plan who moves, other than temporarily, out of the United States as defined in the Federal Social Security Act, may change his or her enrollment to a plan that provides coverage outside the United States.

(7) An employee or annuitant who is enrolled in a health benefits plan which ceases to be an approved health benefits plan may enroll in another plan at any time within 60 calendar days after the date set by the Board for withdrawal of its approval of the plan.

(8) When an employee or annuitant enrolled for self and family dies, leaving a family member as an annuitant entitled to enrollment in a health

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benefits plan, the enrollment shall continue by enrollment of the surviving annuitant. The family member annuitant may change or cancel the enrollment providing he or she does so within 60 calendar days of notification of continuation. The effective date of the change or cancellation shall be the first of the month following the death.

(9) For purposes of this subsection (f) and subsection (a) of this section, a change in custody of a child, whether or not accompanied by a change in economic dependency, at the option of the enrolled employee or employees may be considered to terminate or begin eligibility of the child as a family member of the employee or employees affected by the change in custody.

(10) An employee whose enrollment was continued under Section 599.504(b), (c), (d), (e) or (g) may within 60 days of return to pay status make any change in enrollment which he or she could have made had he or she been in pay status during the continuation.

(11) Upon a determination by the Board or the Executive Officer that an employee or annuitant is unable to maintain a satisfactory physician-patient or plan-employee-annuitant relationship, the Board or Executive Officer may permit a change of enrollment to another plan.

(12) An employee may add or delete family members under the provisions of this section during a period of continuation of enrollment under the provisions of Section 599.504.

(13) Enrollment of any person in a supplemental plan may not be changed to enrollment in a basic plan unless there is an involuntary termination of Medicare benefits or as provided in subdivision (f)(6)(E) of this section.

(g) Multiple Enrollment.

(1) A family member may be enrolled with respect to only one employee or annuitant. An employee or annuitant, who is also a family member of an employee or annuitant, may not be enrolled both as an employee or annuitant and a family member. Enrollment as a family member continues upon entry into employment unless the person enrolls under the rules applicable to employees, in which event enrollment as a family member terminates on the effective date of enrollment as an employee.

(2) An annuitant who would otherwise also be eligible to enroll as an employee must enroll as an annuitant; however, an annuitant who fails to enroll under rules applicable to annuitants and who subsequently becomes an employee, may enroll under rules applicable to employees.

(3) Employees who are employed in more than one position with an employer or employed by more than one employer may enroll with respect to one position or employer only.

(4) An employee or annuitant shall enroll him or herself and all eligible family members into one basic or supplemental plan. Where an employee or annuitant and all eligible family members may not enroll in one basic or supplemental plan due to eligibility rules prescribed by the Board, the employee

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or annuitant shall enroll him or herself and all eligible family members into only one basic plan and into only one supplemental plan offered by one or more different carriers. All enrollments shall be under the name of only one employee or annuitant.

(5) Where an employee or annuitant has filed more than one enrollment form, in the absence of specific instruction from the employee or annuitant to the contrary, the last enrollment form filed shall be taken as indicating the plan in which the employee desires to enroll.

(h) Late Enrollment or Change of Enrollment. Upon a determination by the Board or the Executive Officer that an employee or annuitant was unable, for cause beyond his or her control, to enroll or to change enrollment within the time limits prescribed by this subchapter, the Board shall accept his or her enrollment or change of enrollment provided he or she enrolls or changes enrollment within 31 days after he or she is first able to do so.

(i) Procedure. The employing office will afford each eligible employee and annuitant an opportunity to enroll or to register not to enroll during such times as his enrollment is authorized under these rules by supplying the necessary information relating to available plans and by assisting in the completion of a health benefits plan enrollment form. The employing office will forward all such forms properly completed to the Board's Health Benefits Division.

NOTE: Authority cited: Sections 22794, 22796, 22803, 22830, 22846 and 22860, Government Code. Reference: Sections 22830, 22831, 22832, 22834, 22836, 22837, 22839, 22840, 22841, 22842, 22843, 22844, 22846, 22847 and 22848, Government Code.

HISTORY:

1. Amendment of subsections (c), (d)(3), and (f)(1)(D) filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32). For prior history, see Register 75, No. 49.
2. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
3. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
4. Amendment of subsections (a)-(d) and (f) filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
5. Amendment of subsections (f)(5)(A)-(D) filed 10-4-2001 as an emergency; operative 10-4-2001 (Register 2001, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-1-2002 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-4-2001 order transmitted to OAL 2-1-2002 and filed 3-18-2002 (Register 2002, No. 12).
7. Amendment of subsection (f)(2)(C) and amendment of Note filed 6-24-2005; operative 6-24-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).
8. Redesignation of portions of second paragraph of subsection (f)(2)(C) as new subsections (f)(2)(D)-(E), redesignation and amendment of former third paragraph of subsection (f)(2)(C) as new subsection (f)(3) and subsection renumbering filed 9-27-2011; operative 9-27-2011 pursuant to Government Code section 11343.4 (Register 2011, No. 39).
9. Amendment of subsection (f)(6)(E), repealer and new subsection (g)(4) and new subsection (g)(5) filed 5-15-2013; operative 7-1-2013 (Register 2013, No. 20).

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§ 599.503. Effective Date of Enrollment.

(a) Normal Effective Date. The effective date of enrollment, re-enrollment, or change of enrollment shall be the first of the month following the date the employee or annuitant's Health Benefits Plan Enrollment Form is received in the employing office, subject to deferral under subsection (b) of this section. An enrollment shall not become effective if payroll deduction is not accomplished within six months following the date on which such enrollment would normally have become effective.

(b) Deferred Effective Date. The effective date of enrollment of an employee or annuitant who, in the month preceding that in which his or her enrollment would otherwise be effective, has insufficient earnings after all other mandatory deductions to permit deduction of his or her full contributions, shall be the first day of the month following that in which his or her earnings after other mandatory deductions are sufficient to permit such deduction. This applies to an employee hired on the last day of the month which is also the first day of a pay period.

(c) Effective Date of Enrollment by Certification of Acceptability. The effective date of enrollment, re-enrollment or change of enrollment for an employee or annuitant with respect to whom a certification of acceptability is received by his or her employing office shall be the first day of the following month subject to deferral under subsection (b) of this section.

(d) Effective Date of Enrollment of a Newborn Child or Adopted Child of an Employee or Annuitant Enrolled for Self and One or More Family Members. Notwithstanding the effective date of enrollment as otherwise specified in this section, and without requirement of any prior enrolling action, enrollment of a newborn child or adopted child of an employee or annuitant who has enrolled family members shall be effective on the date of birth or the date physical custody is obtained, and any increase in premium because of the addition of such family member shall be effective on the first of the following month.

(e) Effective Date of Enrollment of an Annuitant on Approval of Retirement. The effective date of enrollment of an annuitant under Section 599.502(d)(3) is the first of the month following the month in which retirement is approved, but in no event earlier than the first day of the month following the effective date of retirement.

(f) Effective Date of Enrollment of an Eligible Family Member (other than an adopted or newborn child). The effective date of a change of enrollment adding an eligible family member, other than an adopted or a newborn child, shall be the first of the month following the date the Health Benefits Plan Enrollment Form is received in the employing office. Enrollment of an eligible family member may not be earlier than the first day of the month following the acquisition of the family member.

(g) Contracting Agency Employees and Annuitants. Enrollments of a contracting agency's employees and annuitants which are received in the office of the Board on or before the last day of the month immediately preceding the

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effective date of the agency's participation under the Act shall be effective on the effective date of such agency participation.

(h) Effective Date of Enrollment of a Newborn Child or Adopted Child of an Employee or Annuitant Enrolled for Self Only. The effective date of enrollment of a newborn or adopted child of an employee or annuitant enrolled for self only shall be the first day of the month following the date of birth or the date physical custody is obtained. Any premium increase resulting from the enrollment of such child shall be due from the effective date of enrollment.

(i) Effective Date in Open Enrollment Period. The effective date of enrollment in special or limited open enrollment period shall be fixed by the Board in its action providing such open enrollment period.

NOTE: Authority cited: Sections 22794, 22796, 22846(a) and 22860, Government Code. Reference: Section 22846(a), Government Code.

HISTORY:
1. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24). For prior history, see Register 75, No. 19.
2. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
3. Amendment of subsections (e) and (g)-(j) filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
4. Change without regulatory effect amending subsection (d) and Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.504. Continuation of Enrollment.

Subject to the right of an employee or annuitant to cancel his or her enrollment at any time, the enrollment of an employee or annuitant continues without change when he or she:

(a) returns to covered employment without a break in service of one or more full monthly pay periods.

(b) is granted a leave of absence without pay under the State Civil Service Act and the rules of the Department of Personnel Administration for a period of one or more full monthly pay periods including leaves of absence for military duty, or other comparable leave, or begins an absence for which he or she has applied for temporary disability compensation, provided he or she files with the Board application for continuation of enrollment prior to the commencement of the leave, or no later than the last day of the month following the month in which the last payroll deduction was taken.

(c) institutes legal proceedings in appealing dismissal from service for cause, provided he or she files with the Board application for continuation of enrollment no later than the last day of the month following the month in which the last payroll deduction was taken.

(d) is suspended from service for one or more full monthly pay periods without pay, provided he or she files with the Board application for continuation of enrollment no later than the last day of the month following the month in which the last payroll deduction was taken.

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(e) receives in any monthly pay period insufficient compensation, after all other mandatory deductions, to permit deduction of his or her full contribution providing proper application for continuation of enrollment is filed no later than the last day of the month following the month in which the last payroll deduction was taken.

(f) applies for disability retirement and files an application for continuation of enrollment no later than the last day of the month following the month in which the last payroll deduction was taken. Upon receipt of premiums from the retirement system, the carrier shall refund overpayments to the annuitant.

(g) first attains the status of "annuitant." The Retirement System shall continue the enrollment unchanged and the annuitant contributions required under the plan shall be deducted from the annuitant's retirement allowance.

(h) enters nonpay status as a permanent employee of a State college employed on a less-than-twelve-month basis, provided he or she files application for continuation of enrollment with the Board no later than the last day of the month following the month in which the last payroll deduction was taken.

If an enrolled employee or annuitant is not competent to act, the guardian, conservator, or person having special power of attorney of such enrolled employee or annuitant may act on his or her behalf to accomplish continuation of any enrollment permitted by this section.

Failure to file an application for continuation or failure to pay premiums after filing an application will result in loss of coverage for any period for which premiums were not paid.

NOTE: Authority cited: Sections 22794, 22796 and 22846(a), Government Code. Reference: Section 22846(a), Government Code.

HISTORY:

1. Amendment of subsection (f) filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32). For prior history, see Register 71, No. 3.
2. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
3. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
4. Amendment filed 6-9-85; effective thirtieth day thereafter (Register 86, No. 24).
5. Change without regulatory effect amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.505. Cancellation of Enrollment.

(a) An enrolled employee or annuitant may cancel his or her enrollment at any time by filing with his or her employing office a properly completed Health Benefits Plan Enrollment Form requesting such cancellation. The effective date of cancellation shall be midnight of the last day of the month in which the enrollment form is received by the employing office.

(b) Upon cancellation, an employee or annuitant and the members of his or her family are not entitled to convert to an individual health benefits contract.

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NOTE: Authority cited: Sections 22794, 22796 and 22846(a), Government Code. Reference: Section 22846(a), Government Code.

HISTORY:
1. Amendment of subsections (a) and (c) filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24). For prior history, see Register 69, No. 8.
2. Amendment of subsections (a) and (c) filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
3. Repealer of subsection (c) filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
4. Change without regulatory effect amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.506. Termination of Enrollment.

(a) An employee's enrollment ceases at midnight of the earliest of the following dates:

(1) The last day of the month following the month in which:

(A) employment is terminated either by resignation or by his or her agency for reasons other than for cause;

(B) the last payroll deduction was taken when payroll deduction was discontinued through administrative error if such deduction was not taken for a continuous period of six months;

(2) Where enrollment has been continued while appealing dismissal from service for cause, under the provisions of Section 599.504, the last day of the month in which such appeal action or actions has or have been terminated with the dismissal being upheld or in which the Board determines that the employee has ceased to diligently pursue his or her appeal.

(3) The last day of the month following the month in which employment status changes so that he or she is excluded from enrollment.

(4) The last day of the month in which he or she dies.

(5) The last day of the month following the last month during which a permanent intermittent employee worked less than 480 hours during a six-month control period or 960 hours during a twelve-month control period.

(6) The last day of the month in which application for disability retirement is denied or withdrawn by the employee where enrollment was continued under Section 599.504(f) pending action on the application.

(b) An annuitant's enrollment ceases at midnight of the earliest of the following dates:

(1) The last day of the month in which he or she dies.

(2) The last day of the month following the month in which he or she ceases to be in the status of "annuitant," unless he or she is eligible for enrollment as an employee in which case his or her enrollment will continue under the plan in which he or she is enrolled.

(c) The coverage of a family member under an employee's or annuitant's enrollment ceases at midnight of the earliest of the following dates, unless he or she is eligible to enroll as an employee, in which case, if he or she enrolls within

60 calendar days after said date, his or her enrollment continues under the plan in which he or she enrolls:

(1) The last day of the month in which he or she ceases to be a family member, or to be eligible for enrollment as a family member. The enrollment of an employee or annuitant shall not be changed by such termination of coverage, and his or her contribution shall continue unchanged until he or she changes enrollment in the manner and at the time provided under Section 599.502(f)(2) or until an administrative document is processed. However, payment by the carrier of any difference between the premium paid between the date of termination of coverage and the effective date of the change in enrollment, and that which would have been paid had the change in enrollment been effective on the date of termination of coverage, shall not exceed those excess premiums paid for a period of up to six months prior to the date on which the action is processed and recorded, pursuant to the employee's or annuitant's request for retroactive cancellation or deletion of the ineligible family member. Payment shall be made to the employer or the enrolled employee or annuitant as their interests appear and in such manner as may be directed by the Executive Officer of the Board.

(2) The day the employee or annuitant ceases to be enrolled, unless the family member continues to be enrolled as a surviving annuitant under the provisions of Section 599.502(f)(7).

(3) On the effective date of an employee's or annuitant's change of enrollment to decrease or terminate family member enrollment.

(d) Upon a finding by the board that enrollment has been continued by an unlawful act as described in Government Code section 20085, all remedies provided by that section shall be pursued. For all terminations of ineligible enrollments, enrollment shall be terminated effective the date of ineligibility pursuant to subdivisions (a) through (c), and the rights, status, or obligations of all parties shall be adiusted pursuant to Government Code section 20160 subdivisions (b) and (e), except that any ineligible enrollment voluntarily terminated by the employee or annuitant prior to June 30, 2013, shall be effective prospectively from the date of termination.

(e) If the retirement allowance of an annuitant is not sufficient to pay the withholdings for the plan in which the annuitant is enrolled, the retirement system from which the allowance is being paid shall notify the annuitant of the plans available at a cost not in excess of the retirement allowance. The annuitant may enroll in another plan whose cost is no greater than his or her allowance, if such plan is available. If the annuitant does not or cannot elect a plan at a cost to him or her not in excess of the allowance, the enrollment of the annuitant shall cease, effective as of the end of the last month for which withholding was made. Each annuitant whose enrollment is so terminated is entitled to conversion pursuant to Section 599.507.

(f) Whenever under this section enrollment terminates on the last day of the month and the monthly payroll period for a state department or agency does

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not coincide with the calendar month, enrollment ceases as of the last day of the calendar month most closely corresponding to the payroll month in which the event resulting in the termination occurs.

(g) Notwithstanding effective dates prescribed in this section, a termination or cancellation of enrollment based on a reduction in hours or time base must be effective prospectively only. Upon a 30-day notice, terminations or cancellations for a reduction in hours or time base may be effective retroactively if coverage was based upon fraud or intentional misrepresentation of material fact.

NOTE: Authority cited: Sections 20121, 22792, 22794, 22796 and 22846, Government Code. Reference: Section 22846, Government Code.

HISTORY:
1. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24). For prior history, see Register 72, No. 24.
2. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
3. Amendment filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
4. Amendment of subsection (c)(1) and amendment of Note filed 6-24-2005; operative 6-24-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).
5. New subsection (f) filed 9-27-2011; operative 9-27-2011 pursuant to Government Code section 11343.4 (Register 2011, No. 39).
6. New subsection (d), subsection relettering and amendment of Note filed 2-21-2013; operative 2-21-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 8).

§ 599.507. Conversion.

An employee or annuitant whose enrollment is terminated other than by cancellation or withdrawal of his or her employer from participation in the Public Employees' Medical and Hospital Care Act, and any family member whose coverage terminated because of termination of enrollment of an employee or annuitant or because of loss of family member status, is entitled to the issuance of a conversion plan provided that application is made and the premium or other periodic charge is paid within one month of the date of termination of enrollment or termination of family member status, in which event coverage under the conversion plan shall become effective at 12:01 a.m. the day following such termination.

NOTE: Authority cited: Sections 22794, 22796 and 22842, Government Code. Reference: Section 22842, Government Code.

HISTORY:
1. Amendment filed 7-31-68 as an emergency; effective upon filing. (Register 68, No. 29). For prior history, see Register 67, No. 43.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 11-27-68 (Register 68, No. 45).
3. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
4. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
5. Amendment filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
6. Change without regulatory effect amending. Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

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§ 599.508. Minimum Standards for Health Benefits Plans.

(a) To be qualified to be approved or adopted by the Board, a health benefits plan must:

(1) Comply with the Public Employees' Medical and Hospital Care Act and this subchapter, as amended from time to time.

(2) Accept enrollment, in accordance with this subchapter, without regard to physical condition, age, ethnic origin, religion or sex at the time of original group enrollment, of all eligible employees or annuitants, except that plans which are sponsored by employee organizations need not accept enrollment of persons who are not members of the organization.

(3) Extend to all employees, annuitants and family members who are eligible therefor the right, during the time allowed, to convert to a contract for health benefits regularly offered by the carrier, or an appropriate affiliate, for group conversion purposes. Such contract must, at the option of the employee, annuitant or family member, be continued in effect by the carrier except for fraud or nonpayment of contractual charges.

The contract shall, upon conversion, become effective as of the day following the date of termination of coverage, and the employee or annuitant shall pay the entire cost thereof directly to the carrier. The nongroup contract may not deny or delay any benefit that it provides for a person converting from a plan approved under this subchapter, except to the extent that benefits are continued under the health benefits plan from which he or she converts.

The Board may request an extension of time for conversion because of delayed determination of ineligibility for service retirement or disability retirement, in which case conversion must be permitted until the date specified by the Board in its request for extension.

Any such conversion contract may provide for an adjustment of benefits with respect to any covered person at such age as he or she becomes eligible to participate in benefits provided under either Part A or Part B of Title XVIII, Social Security Act.

(4) (A) Provide that any person, whether employee, annuitant, or family member, whose enrollment terminates other than by voluntary cancellation or termination of the group agreement, and who, on the day of termination is hospitalized, shall be granted a continuation of the benefits of the plan with respect to medical conditions that were present or pre-existing at the time of hospitalization or occurred during the hospitalization and which require continued hospitalization, but not beyond the 91st day following the termination.

(B) Provide that any person, whether employee, annuitant, or family member, whose enrollment has been changed from one plan to another and who on the effective date of such change is hospitalized, shall be granted a continuation of the benefits of the prior plan with respect to medical conditions that were present or pre-existing at the time of hospitalization or occurred during the hospitalization and which require continued hospitalization, but not beyond

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the 91st day following the last day of enrollment in the prior plan. Upon change of enrollment to the plan of a person so hospitalized on the effective date of the change, benefits with respect to the cause of such hospitalization shall not be paid or provided while that person is entitled to continuance of benefits under the prior plan, but all other benefits will be paid during such period.

(C) Provide that any person whether employee, annuitant or family member who is totally disabled on the date of termination of the group contract, shall be granted a continuation of the benefits of the plan with respect to the cause of such total disability for up to 12 months after the date of termination, subject to plan maximums and provisions.

(5) Provide that each employee and annuitant who enrolls in a plan receive evidence of enrollment in a form to be approved by the Board, summarizing the conditions of the plan including but not limited to, those concerning benefits, claims, and payment of claims.

(6) Provide a standard rate structure which contains one standard individual rate, one standard rate for employees and annuitants with one dependent, and one standard rate for employees and annuitants with two or more dependents, without geographical or other variation. Notwithstanding the foregoing, and subject to the approval of the Board, a health benefits plan may charge contracting agency employees and annuitants rates that are based on regional variations in the costs of health care services.

(7) Maintain statistical records regarding the plan as are agreed to by the Board, separately from those of any other activities or benefits conducted or offered by the carrier administering the plan, so as to reveal the utilization of benefits under the plan, the gross and net cost of such benefits, and the administrative cost experienced under the plan as it pertains to employees and annuitants enrolled under this subchapter.

(8) Subject to the Board's authority to risk adjust premiums, and upon its approval to exercise this authority, participate in the following risk adjustment procedures.

(A) The annual premiums adopted by the Board for the next plan year will be risk adjusted utilizing the risk assessment method selected by the system. The system will select a risk adjustment methodology that is consistent with industry best practices and similar to those used by the United States Department of Health and Human Services and other state and federal agencies. The methodology will be provided to plans at least 90 days prior to the public announcement of premiums for the next plan year.

(B) The risk adjusted premiums adopted by the Board for the next plan year shall be subject to a calculation prior to the beginning of the plan year. This calculation may result in requiring a plan to reimburse the system or the system to reimburse a plan a portion of the monthly premiums on a monthly basis starting the beginning of the plan year. Reimbursements from plans to the system shall be deposited into an account established for this purpose pursuant to

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Section 22911 of the Government Code, within thirty days of receipt. Reimbursements from the system to plans shall be paid from the funds received from plans deposited into the aforementioned account, within thirty days of deposit.

(C) During the plan year, a plan's enrollment and risk scores of employees, annuitants, and family members will be measured by the system to see if its risk adjusted premium needs to be re-calculated. This re-calculation may result in the modification of monthly reimbursement amounts, as outlined in (B) above, for the remainder of the plan year. Reimbursements from plans to the system shall be deposited into an account established for this purpose pursuant to Section 22911 of the Government Code, within thirty days of receipt from plans. Reimbursements from the system to plans shall be paid from the funds received from plans deposited into the aforementioned account, within thirty days of deposit.

(D) A final reconciliation will be performed in the subsequent plan year and may result in additional reimbursements. Any additional reimbursements shall follow the reimbursement process outlined in paragraphs (B) and (C).

(E) This paragraph shall not apply to an employee association health benefit plan subject to Board approval pursuant to Section 22850 of the Government Code.

(9) Provide for payment to a special reserve, as of the end of any contract period, of so much of the contributions and other income attributable to the plan as exceeds the sum incurred for benefit payments, administrative expenses, premium and other taxes, risk charges, and other retention charges. Upon the request of the Board, made after a public hearing on the question, contribution rates must be reduced and/or benefits increased, whichever is appropriate in judgment of the Board, whenever the special reserve exceeds the latest three calendar months' contributions paid under the plan. In determining the amount of incurred benefits paid under the plan, reasonable reserves may be established for pending claims and incurred but unreported claims. All such claim reserves, and the special reserves, must be accounted for separately from reserves maintained by the carrier for other plans. Income derived from the investment of the special reserves shall be credited to the reserves at 100% of the plan's annual corporate rate of interest. Income reasonably attributable to investment of claim reserves shall be taken into account in determining the amount of retention charges. In the event the contract is terminated, the underwriting or obligation under the plan is assumed by a different carrier, or approval of the plan is withdrawn, the special reserve and such portion of any claim reserves as are not finally utilized in the payment of benefits under the plan shall be paid into the Public Employees' Contingency Reserve Fund for the benefit of the plan, and the Board may then transfer such reserves to successor plans and/or carriers on such basis as it determines to be equitable after a public hearing held within 18 months following the effective date of the plan's termination, withdrawal of approval, or

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transfer to a different carrier. For a carrier providing service benefits, the board may approve the use of other equitable and practical financial procedures. For plans that are community-rated, the carrier shall, in lieu of being subject to the foregoing provisions of this paragraph, agree to furnish such financial and accounting reports and to follow such recording procedures as may be requested by the Board and that are consistent with the normal operations of the plan.

(10) Provide that in the event an employee or annuitant is dissatisfied with the amount paid or service rendered pursuant to his or her claim on his or her behalf or on behalf of a family member and so requests, representatives of the parties including a representative of the Board will confer in an effort to reach a settlement, provided that no agreement reached by such conferees shall bind the employee, annuitant, or carrier without each party's consent or bar any remedy otherwise available.

(b) To be qualified to be approved by the board, a health benefits plan must not:

(2) Have an initiation, service, enrollment, or other fee or charge in addition to the rate charged for the plan, except that notwithstanding subparagraph (b)(1) of this section, comprehensive group practice prepayment plans and individual practice prepayment plans may impose an additional charge to be paid directly by the employee or annuitant for certain medical supplies and services, if the supplies and services on which additional charges are imposed are clearly set forth in advance and are applicable to all employees and annuitants. This subparagraph does not apply to charges for membership in employee organizations sponsoring plans.

NOTE: Authority cited: Sections 22794, 22796, 22850, 22864 and 22911, Government Code. Reference: Sections 22796, 22850, 22864 and 22911, Government Code.

HISTORY:

1. Amendment of subsection (a)(2) filed 1-13-71; designated effective 4-1-71 (Register 71, No. 3). For prior history see Register 67, No. 43.
2. Amendment of subsection (a)(9) filed 12-2-75; effective thirtieth day thereafter (Register 75, No. 49).
3. Amendment of subsections (a)(1)-(a)(4), (a)(7) and (b)(1) filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
4. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
5. Amendment of subsection (a) filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
6. Amendment of subsections (a)(2)-(3) filed 10-4-2001 as an emergency; operative 10-4-2001 (Register 2001, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-1-2002 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 10-4-2001 order transmitted to OAL 2-1-2002 and filed 3-18-2002 (Register 2002, No. 12).
8. Amendment of subsection (a)(7) and amendment of Note filed 4-15-2004 as an emergency; operative 4-15-2004 (Register 2004, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-13-2004 or emergency language will be repealed by operation of law on the following day.

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9. Certificate of Compliance as to 4-15-2004 order transmitted to OAL 6-25-2004 and filed 8-9-2004 (Register 2004, No. 33).
10. Change without regulatory effect amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).
11. Repealer of subsection (a)(3) and subsection renumbering filed 5-15-2013; operative 7-1-2013 (Register 2013, No. 20).
12. New subsections (a)(8)-(a)(8)(E), subsection renumbering and amendment of Note filed 7-24-2013; operative 7-24-2013 pursuant to Government Code section 11343.4(b)(3) (Register 2013, No. 30).

§ 599.509. Minimum Standards for Health Benefits Carriers.

A health benefits plan will not be approved by the Board unless the carrier of the plan meets, in addition to the requirements of the Public Employees' Medical and Hospital Care Act, the following additional requirements:

(a) It must be lawfully engaged in the business of supplying health benefits.

(b) It must have, in the judgment of the Board, the financial resources, organizational facilities and experience in the field of health benefits to carry out its obligations under the plan.

In the case of carriers for service benefit plans and indemnity benefit plans, the Board informing its judgment shall be guided by such factors as the length of time the carrier has been in the prepaid health benefits field, the capacity of the carrier to effectively service claims of enrolled employees and annuitants throughout the State, the general financial stability of the carrier as exhibited by examinations of the State Insurance Commissioner or other regulatory bodies, and the extent to which the carrier underwrites other prepaid health benefits plans in California.

In the case of carriers for group practice prepayment plans, the Board in forming its judgment shall be guided by such factors as the number of physicians practicing in the group, the number of physicians practicing in the group as specialists and their qualifications, the proportion of the group's income which is derived from prepayment as opposed to fee-for-service, the extent to which the group utilizes outside consultants, the extent to which ancillary and other related services, both in and out of the hospital, are available in the group, the stability of the group's finances and organization, and the potential for enrollment of employees and annuitants under the plan as well as the plan's capacity for servicing such potential enrollees including a demonstrated commitment to cost containment, innovative services, effectiveness of utilization review, and success in achieving market penetration.

In the case of carriers for individual practice prepayment plans, the Board in forming its judgment shall be guided by such factors as the number of physicians participating in the plan, the number of physicians practicing as specialists and their qualifications, the extent to which ancillary and other related services, both in and out of the hospital, are covered, the stability of the plan, finances and organization of the plan, the plan's financial responsibility, and the

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potential for enrollment of employees and annuitants under the plan, as well as the plan's capacity for servicing such potential enrollees including a demonstrated commitment to cost containment, innovative services, effectiveness of utilization review, and success in achieving market penetration.

(c) It must agree to keep such reasonable financial and statistical records and furnish such reasonable financial and statistical reports with respect to the plan as may be requested by the Board, which may include but is not limited to:

(1) Number of persons enrolled under the plan, by employee, annuitant, and family coverage.

(2) Contributions received from such employees and annuitants, and the employer.

(3) Claims incurred on behalf of such employees and annuitants, including health benefits payments made, or services rendered, by employee, annuitant, and family coverage.

(4) Expense and risk or other retention charges.

(5) Reserves established under the plan.

(d) It must agree to permit representatives of the Board to audit and examine its records and accounts which pertain, directly or indirectly, to the plan at such reasonable times and places as may be designated by the Board. However, any privileged medical information relating to any claimant's medical history and record need not be released by the carrier or revealed to the Board or its representatives, to the extent that any patient's identity is revealed. However, such data must be provided in abstract format upon request by the Board.

(e) It must agree to comply with requirements of the Board in the solicitation of enrollment of employees and annuitants and in any advertising concerning or involving participation in the plan.

(f) It must agree to accept, subject to adjustment for error or fraud, in payment of its prepayment charges for health benefits for all employees and annuitants enrolled in its plan, the contribution of each employee and annuitant withheld from the salary or retirement allowance payable to him or her.

NOTE: Authority cited: Sections 22794 and 22796, Government Code. Reference: Section 22796, Government Code.

HISTORY:

1. Amendment of subsection (f) filed 11-27-68 as an emergency; effective upon filing (Register 68, No. 45). For prior history, see Register 68, No. 29.
2. Certificate of Compliance—Sec. 11422.1, Gov. Code, filed 2-20-69 (Register 69, No. 8).
3. Amendment filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
4. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
5. Amendment filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
6. Change without regulatory effect amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

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§ 599.510. Minimum Scope and Content of Basic Health Benefits Plans.

(a) No contract shall be made or approved for a basic health benefits plan which does not include in its coverage the following benefits. The payment schedule for such benefits must be sufficient in the judgment of the Board to meet the major share of usual, customary or reasonable charges for such services.

(1) Hospital benefits.

(A) In-hospital.

Coverage must be extended to enrolled employees, annuitants, and family members to provide benefits in the event of confinement in a hospital because of injury or sickness.

Hospital "room and board benefits" must be provided for at least the first 31 days of hospital confinement. "Miscellaneous hospital benefits" must be provided for hospital charges incurred over and above those for room and board, such as charges for the use of operating and cystoscopic rooms, anesthetic supplies, anesthesia when supplied by the hospital as a regular service and administered by a salaried employee, ordinary splints, plaster casts, and surgical dressings.

(B) Outpatient—hospital.

Coverage must be extended to enrolled employees, annuitants, and family members to provide benefits because of accidental bodily injury, surgery or emergency treatment for sickness when not admitted to a hospital or confined as a registered bed patient. Such benefits shall include but are not limited to: 1. Charges for use of operating and cystoscopic rooms, 2. Charges for anesthetic supplies and anesthesia when supplied by the hospital as a regular service and administered by a salaried employee, and 3. Charges for ordinary splints, plaster casts and surgical dressings.

(2) Surgical Benefits In and Out of the Hospital.

Coverage must be extended to enrolled employees, annuitants and family members to provide benefits in the event of surgical operations performed because of injury or sickness.

(3) In-hospital medical benefits.

Coverage must be extended to enrolled employees, annuitants, and family members to provide benefits for medical services rendered by attending physicians or physician anesthetists, other than those of a surgeon as described above, while a registered bed patient in a hospital.

(4) Outpatient medical benefits.

Coverage must be extended to enrolled employees, annuitants and family members to provide benefits for medical services rendered on an outpatient basis. Such services shall include those of a physician and surgeon for usual medical services and a physician anesthetist.

(5) Diagnostic, X-ray, and laboratory examinations benefits in and out of the hospital. Coverage must be extended to enrolled employees, annuitants, and family members and shall include those services of medical and paramedical

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personnel such as, but not restricted to, a pathologist, or a roentgenologist to provide for all ordinary clinical and pathological laboratory services and X-ray examinations. Such services may be rendered either by physicians or by salaried hospital or clinical personnel as appropriate.

(6) Maternity benefits. Coverage must be extended to each enrolled employee, annuitant, and covered family member to provide medical and hospital benefits for maternity care.

(7) Ambulance service benefits. Coverage must be extended to enrolled employees, annuitants, and family members to provide benefits for necessary local professional ambulance service to a hospital.

Determination of usual, customary, and reasonable charges for purposes of this subsection 599.510(a) shall take into account the Relative Value Studies of the California Medical Association with respect to any service included in such Studies.

(b) There shall be excluded from coverage set forth above:

(1) charges incurred in connection with bodily injury or disease covered by worker's compensation statutes or similar legislation.

(2) charges for which the claimant has been or is entitled to be reimbursed under any other basic hospital, surgical or medical plan not subject to these rules for which the employer shall have paid any part of the costs. Premiums or other consideration paid for the coverage not provided shall be returned to the person, state agency or contracting agency equitably entitled thereto.

(3) charges incurred during confinement in a hospital owned or operated by the United States Government, charges for services, treatments or supplies furnished by or for the United States Government or paid for by said United States Government, or charges incurred during confinement in a hospital owned or operated by a state, province, or political subdivision, unless there is an unconditional requirement to pay these charges without regard to any rights against others, contractual or otherwise.

(4) services and charges for services for which the claimant is entitled to have payment made on his or her behalf under Part A or Part B, Title XVIII of the Social Security Act.

(5) charges in accordance with such other exclusions as may be agreed to by the Board.

(c) There may be excluded from coverage set forth above:

(1) charges incurred by or on behalf of a family member or services received by a family member during a continuous period of hospitalization which commenced before the effective date of the enrollment if eligibility to enroll including him or her in coverage of a plan derives from other than an open enrollment period; and

(2) charges incurred or services received by an employee, annuitant, or family member during a continuous period of hospitalization which commenced before the effective date of his or her enrollment if eligibility to enroll derives

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from an open enrollment period. Such exclusion shall no longer apply upon the 91st day of enrollment in the plan.

NOTE: Additional authority cited: Sections 22794 and 22796, Government Code. Reference: Sections 22796, 22850, 22853 and 22860, Government Code.

HISTORY:
1. Amendment of subsection (b)(2) filed 7-31-68 as an emergency; effective upon filing (Register 68, No. 29). For prior history, see Register 66, No. 10.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 11-27-68 (Register 68, No. 45).
3. Amendment of subsection (b)(2) filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32).
4. Amendment of subsections (a)(6) and (b)(1) filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
5. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
6. Amendment filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
7. Editorial correction of Authority cite (Register 95, No. 5).
8. Change without regulatory effect amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.511. Alternative Benefit Plans.

(a) To be qualified to be approved, or contracted for, by the Board, an alternative benefit plan must comply with the Public Employees' Medical and Hospital Care Act and this subchapter.

(b) Notwithstanding any other provision of this subchapter, only employees and annuitants of contracting agencies and their family members shall be eligible to enroll in an alternative benefit plan.

(c) Notwithstanding any other provision of this subchapter, the Board may elect to offer one or more alternative benefit plans to contracting agency employers either in lieu of, or in addition to, any other health benefits plans approved or contracted for by the Board.

(d) In the event that the governing board of a contracting agency that is subject to the Public Employees' Medical and Hospital Care Act elects to provide an alternative benefit plan(s) to its employees or annuitants, it must file a resolution with the Office of Employer and Member Health Services of the Board. The resolution shall be effective on the first day of the second month following the month in which the resolution is received in the office of the Board.

NOTE: Authority cited: Sections 22794 and 22796, Government Code. Reference: Sections 22850(f)(2) and 22864(b)(3), Government Code.

HISTORY:
1. New section filed 4-13-2004 as an emergency; operative 4-13-2004 (Register 2004, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-11-2004 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 86, No. 24.
2. Certificate of Compliance as to 4-13-2004 order transmitted to OAL 8-3-2004 and filed 9-15-2004 (Register 2004, No. 38).

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3. Change without regulatory effect amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.512. Contributions.

(a) Except as otherwise provided in Section 599.513 and subsection 599.512(e), the employer shall contribute toward the cost of coverage for each enrolled employee, annuitant, and family member, other than for periods during which the enrollment of an employee is continued under the provisions of subsections 599.504(b), (c), (d), (e), (f), or (g), or for a person who is eligible to enroll only on the condition that he or she pay the total cost of his or her coverage, exclusive of contribution made by the employer to the Public Employees' Contingency Reserve Fund in the amount provided by law.

(b) The contribution of each enrolled employee and annuitant toward the cost of coverage under the plan in which he or she is enrolled shall be an amount equal to the gross contribution rate established for the plan by contract, less the contribution to be made by the employer under subsection 599.512(a). The gross contribution rate shall consist of the basic contribution rate set forth in the contract.

Where enrollment is continued under Section 599.504 and the employer does not contribute under subsection 599.512 (a), the employee shall remit monthly during such continuation the gross contribution rate for his or her coverage under the plan to the carrier on or before the tenth day of the month preceding the month for which the contribution was due, or pursuant to any other arrangement agreed to by the Board. For all other enrollments the gross contribution rate required less the contribution made by the employer under subsection 599.512 (a) shall be withheld from salary or retirement allowance warrants.

For the purposes of application of this subsection to contributions due for enrollment in a prior year, the gross contribution rate and the employer's contribution under subsection 599.512 (a) shall be such a contribution rate for the year for which contribution is due.

(c) Contributions shall commence with the first salary or retirement allowance warrant payable to the employee or annuitant preceding the effective date of enrollment, and shall be made for coverage for a full period of one month. Contributions of the employer shall commence on the effective date of enrollment.

(d) Contributions shall terminate with the last contribution made immediately prior to the termination of enrollment.

(e) Contributions for an enrolled employee absent because of workers' compensation disability for which he or she has applied for temporary disability compensation, who continues enrollment under Section 599.504, shall be paid as follows:

(1) During the period of adjudication of his or her application for compensation and thereafter during such time as he or she receives temporary

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disability compensation which is not supplemented by sick leave or vacation, or if such supplemental payments are not sufficient to permit the deduction of his or her contribution, the employee shall pay the total cost of coverage as provided under subsection 599.512 (b).

(2) Upon establishment of entitlement to temporary disability compensation and his or her election to supplement such compensation with sick leave or vacation, the employee shall be entitled to receive payment of the employer's contribution for the period of adjudication, and deduction of the employee's contributions from payroll and payment of the employer's contributions shall continue thereafter so long as supplemental payments permit deduction of the full contribution of the employee.

NOTE: Authority cited: Sections 22794 and 22796, Government Code. Reference: Sections 22870-22899, Government Code.

HISTORY:
1. Amendment of subsection (c) filed 7-5-74 as an emergency; effective upon filing (Register 74, No. 27). For prior history, see Register 72, No. 24.
2. Certificate of Compliance filed 9-6-74 (Register 74, No. 36).
3. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
4. Amendment of subsections (b) and (c) filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
5. Change without regulatory effect amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.513. Public Employees' Contingency Reserve Fund.

(a) For all plans approved or contracted for under this part, there shall be established a Public Employees' Contingency Reserve Fund in accordance with Section 22910 of the Public Employees' Medical and Hospital Care Act.

(b) Contribution shall be made by the employers during each calendar year to the Public Employees' Contingency Reserve Fund on account of each approved or contracted plan, in the amount authorized by law.

(c) The contributions made to the Contingency Reserve Fund in (b), above, shall not be used for administrative expense purposes. They may be utilized to defray increases in future rates, to reduce the contributions of employees and annuitants and the employers, or to increase the benefits provided by any plan to the extent that amounts in the Fund are derived from that plan, upon determination by the Board.

NOTE: Authority cited: Sections 22796, 22800, 22830 and 22831, Government Code. Reference: Sections 22870, 22890 and 22913(c), Government Code.

HISTORY:
1. Amendment filed 7-31-68 as an emergency; effective upon filing (Register 68, No. 29). For prior history, see Register 65, No. 20.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 11-27-68 (Register 68, No. 45).
3. Amendment of subsection (a), (b), (d)(1) and (d)(3) filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
4. Amendment filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
5. Amendment filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).

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6. Change without regulatory effect amending subsection (a) and Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.514. Application for Approval of Major Medical Plans Offered by Employee Organizations. [Repealed]

NOTE: Authority cited: Sections 20120 and 22775, Government Code. Reference: Sections 22775 and 22776, Government Code.

HISTORY:
1. Amendment filed 7-5-74 as an emergency; effective upon filing (Register 74, No. 27).
2. Certificate of Compliance filed 9-6-74 (Register 74, No. 36).
3. Repealer of subsection (c) and renumbering of subsection (d) filed 6-15-79; designated effective 8-1-79 (Register 79, No. 24).
4. Repealer filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).

§ 599.515. Contracting Agency Participation.

(a) Resolution. The resolution of the governing board of a contracting agency electing to be subject to the Public Employees' Medical and Hospital Care Act shall be filed with the Health Benefits Division of the Public Employees' Retirement System. If such resolution is filed with the Health Benefits Division on or before the tenth day of any month, the contracting agency and its employees and annuitants will become subject to the Act on the first day of the following month. The effective date of participation where the resolution is received in the Health Benefits Division after the tenth day of any month shall be at midnight of the last day of the following month. The resolution shall designate an officer or employee of the agency who shall be responsible for distribution, receipt and forwarding to the Health Benefits Division enrollment forms for its employees and annuitants, the filing of reports and the transmission of contributions.

A resolution filed with the Health Benefits Division may be revoked by the filing of a resolution of the governing board in the Health Benefits Division no less than ninety days prior to the effective date specified in the resolution electing to be subject to the Public Employees' Medical and Hospital Care Act.

(b) Reports. The agency shall file in the Health Benefits Division on or before the tenth day of each month such reports covering the employees and annuitants enrolled as of the first day of the month as the Board may require, and the total contributions due for each. The report shall be accompanied by payment of the total of such contributions for employees and the employer contributions due for annuitants of the agency enrolled under the program and the employer contribution for administrative costs and the Public Employees' Contingency Reserve Fund.

(c) Enrollment. The contracting agency shall make available to its employees and annuitants information concerning health benefit plans and procedures for enrollment and the enrollment forms prescribed by the Board. It

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shall cause all properly executed enrollment forms to be transmitted promptly to the Health Benefits Division.

(d) Delinquency. The Executive Officer of the Board, upon failure of a contracting agency to perform any act required by the Meyers-Geddes State Employees' Medical and Hospital Care Act or these rules, shall on behalf of the Board, make demand for performance of such act on the agency pursuant to Section 22939 of the Meyers-Geddes State Employees' Medical and Hospital Care Act. If such demand is not satisfied, the Executive Officer shall refer the matter to the Board at its next meeting.

(1) The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due.

(2) Interest on late payments:

(A) If a public agency fails to pay contributions due within the prescribed time, interest shall be charged upon the amount due from the due date until received by the System in Sacramento.

(B) The rate of interest to be charged shall be equal to the short-term interest rate for the coverage month due.

(3) Cost assessment for late reporting:

(A) If a public agency fails to file a remittance report as required by these regulations within the time period set forth, an assessment to recover the cost of follow-up and special accounting of $25.00 for each report shall be made.

(B) If, in the opinion of the Executive Officer, such assessment is insufficient to meet the added costs because of special circumstances, he/she shall determine such costs and make an appropriate supplemental assessment.

(4) Time extension:

(A) A reasonable extension of time for filing remittance reports may be granted by the Executive Officer or designee whenever good cause exists.

(e) Termination. A contracting agency may terminate its participation under the Public Employees' Medical and Hospital Care Act by filing with the Board a resolution passed by a majority vote of its governing body. The resolution electing to terminate must be filed with the Health Benefits Division of the Public Employees' Retirement System no later than 60 days after the Board of Administration approves and announces the health plan premium rates for the following year. The termination becomes effective at the end of the current contract year. The election to terminate is irrevocable after the filing of the resolution, and a resolution electing to be subject to the Public Employees' Medical and Hospital Care Act may not be filed thereafter within five years of the termination date.

NOTE: Authority cited: Sections 20121, 22794, 22796, 22800, 22830, 22831 and 22846(a), Government Code. Reference: Sections 22901 and 22922-22939, Government Code.

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HISTORY:
1. Amendment of subsection (e) filed 8-5-76; effective thirtieth day thereafter (Register 76, No. 32). For prior history, see Register 75, No 12.
2. Amendment of subsections (a), (b) and (c) filed 6-27-80; designated effective 8-1-80 (Register 80, No. 26).
3. Amendment filed 6-9-86; effective thirtieth day thereafter (Register 86, No. 24).
4. Amendment of subsection (e) filed 4-3-2003 as an emergency; operative 4-3-2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-1-2003 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 4-3-2003 order transmitted to OAL 7-9-2003 and filed 8-18-2003 (Register 2003, No. 34).
6. Amendment of subsection (e) filed 8-4-2004; operative 8-4-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 32).
7. Change without regulatory effect amending subsection (d) and Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.516. Payment of Surcharges for Late Enrollment in Medicare Part B.

(a) As used in this section and Government Code section 22831(b):

(1) "Surcharge for late enrollment in Part B of Medicare" means the Part B penalties for late enrollment, exclusive of the Part B premium and interest or penalties for the late payment of premiums. At the discretion of the Board, Part B penalties may be paid directly to the Medicare program or annuitants may be reimbursed for the costs of their Part B penalties.

(2) "Annuitants" means annuitants and their family members.

(3) "Medicare eligible annuitants" means those annuitants and their family members who (a) are enrolled in a basic health benefits plan, (b) are eligible for Part A of Medicare without cost, (c) turned 65 between January 1, 1985 and June 30, 2005, and (d) have not previously enrolled in Part B of Medicare.

(4) "Adverse selection" means that the costs of covering Medicare eligible annuitants in a particular basic plan results in higher premiums for all members of that plan.

(5) "Less costly" means one of the following:

(A) The reduction in a carrier's basic plan premium and resulting savings from moving a Medicare eligible annuitant into the carrier's Medicare plan are greater than an amount equal to the costs of that annuitant's Part B penalties and the employer's mandatory contribution for enrollment in the carrier's Medicare plan. For purposes of this section, the employer's mandatory contribution shall include all amounts that the employer would be required to pay pursuant to Government Code section 22879.

(B) In the case of a self-funded plan administered by the Board, the costs of medical and pharmaceutical claims paid from the Health Care Fund on behalf of a Medicare-eligible annuitant have been, and are projected to be, an amount greater than the Part B penalties for that annuitant and the claim costs that would be paid by the Health Care Fund if the annuitant were enrolled in the plan's Medicare supplement.

(6) "Defined class of Medicare eligible annuitants" means a specific category or group of Medicare eligible annuitants identified or established at the discretion of the Board.

(7) "Determination" means an evaluation and decision made by the Board pursuant to these regulations and Section 22831(b) as to whether (a) adverse selection due to the enrollment of Medicare eligible annuitants has impacted a basic health benefits plan contracted for or approved by the Board and (b) the payment of the Part B penalties for the Medicare eligible annuitant(s) enrolled in that basic plan and their enrollment in a Medicare health benefits plan would be less costly than continued enrollment in the basic plan. An affirmative determination shall be referred to as a determination of cost savings.

(8) "CMS" means the Centers for Medicare and Medicaid Services, the federal agency which administers the Medicare program.

(b) If the Board makes a determination of cost savings with respect to a Medicare eligible annuitant or defined class of Medicare eligible annuitants enrolled in a basic health benefits plan, the Board may seek funding for, or otherwise arrange for, payment of the Part B penalties on behalf of those annuitants.

(c) Determinations will be specific to a designated basic health benefits plan and the costs of the Part B penalties will be based on CMS Medicare eligibility data. At its discretion, the Board may make determinations hereunder on an individual basis or for a defined class of Medicare eligible annuitants. Nothing in this section shall be construed as requiring the Board to undertake or make a determination with respect to a particular basic health benefit plan, individual annuitant, or group of annuitants.

(d) Except as specifically provided herein and approved by the Board, neither the California Public Employees' Retirement System nor any employer or other entity shall have any obligation to pay Part B penalties or reimburse individual annuitants for the costs of such penalties.

(e) Unless otherwise provided by law, the California Public Employees' Retirement System shall not be financially liable for the payment of Part B penalties.

(f) Neither the employer nor any other entity which funds the payment of Part B penalties pursuant to this section shall have any obligation to continue to pay, or fund the payment of, Part B penalties on behalf of any annuitant or family member in the event that:

(1) Funding is not available for payment of Part B penalties; or

(2) The Board determines that payment of the Part B penalties and the employer's mandated contribution is no longer less costly than enrollment in a basic health benefits plan; or

(3) The annuitant or family member, once enrolled in Medicare Part B, fails to pay the Part B premiums or otherwise fails to maintain continuous coverage under Part B.

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(g) A Medicare Part B Penalty Reimbursement Program is hereby established for the payment or reimbursement of the penalties for late enrollment in Medicare Part B. If the Board makes a determination of cost-savings with respect to a Medicare eligible annuitant or defined class of Medicare eligible annuitants, each annuitant shall:

(1) Enroll in the Part B Penalty Reimbursement Program.

(2) Enroll in Medicare Part B at the earliest possible date, but no later than the end of the current Part B open enrollment period or, if the open enrollment period has closed, the next Part B open enrollment.

(3) Maintain continuous enrollment in Part B of Medicare and pay all Part B premiums when due. In the event that the program elects to reimburse the program participants for the costs of the Part B penalties rather than paying those penalties directly to Medicare, the annuitant must also timely pay all Part B penalties.

(4) Enroll in a Medicare health benefits plan approved or contracted for by the Board effective as of the date that Part B coverage commences.

(h) A Medicare Part B Penalty Reimbursement Program participant who fails to maintain Medicare Part B coverage, including due to a failure to timely pay the Part B premium and all penalties that are the responsibility of the participant, will not be eligible to re-enroll in a basic plan and may be required to reimburse the Part B penalties previously paid on his or her behalf. Termination of Medicare coverage for failure to pay the Part B premiums shall not constitute an involuntary termination of Medicare benefits under section 599.502(f)(12). In the event that the annuitant later re-enrolls in Part B, he or she will not be eligible to re-enroll in the program unless it is determined that there would be cost savings. Penalties and costs associated with lapse or cancellation of, and subsequent re-enrollment in, Part B of Medicare will not be reimbursed.

(i) Any Medicare eligible annuitant who is included in a cost savings determination made by the Board and who, after adequate notice from the Board of his or her right to enroll in the Part B Penalty Program, refuses to enroll in Medicare Part B and a Medicare health benefits plan approved or contracted for by the Board, shall no longer be eligible for continued enrollment in a basic health benefits plan.

NOTE: Authority cited: Sections 22794, 22796 and 22831(b), Government Code. Reference: Section 22831(b), Government Code.

HISTORY:

1. New section filed 1-15-2004 as an emergency; operative 1-15-2004 (Register 2004, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-14-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-15-2004 order, including amendment of subsections (a)(5)(A) and (h), transmitted to OAL 5-13-2004 and filed 6-28-2004 (Register 2004, No. 27).
3. Change without regulatory effect amending subsections (a), (a)(5)(A) and (a)(7) and amending Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

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§ 599.517. Termination of Enrollment in Basic Health Benefits Plan for Failure to Enroll In Part A and Part B of Medicare.

Except as otherwise provided under federal law or regulation, specified employees, annuitants and their family members who become Medicare-eligible, as defined below, may not be enrolled in a basic health benefits plan. Failure of a Medicare-eligible basic plan member to enroll in Part B of Medicare and in a Medicare Plan will result in termination of basic plan coverage.

(a) As used in this section and in Government Code section 22844:

(1) "Post-1997 Basic Health Plan Enrollees" means those annuitants and their family members who (a) have been continuously enrolled in a basic health benefits plan on or after January 1, 1998, and (b) turned 65 on or after January 1, 1998 and before January 1, 2005.

(2) "Post-2000 CSU Basic Health Plan Enrollees" means those annuitants of the California State University and their family members who (a) have been continuously enrolled in a basic health benefits plan on or after January 1, 2001, and (b) turned 65 on or after January 1, 2001 and before January 1, 2005.

(3) "Prospective Medicare Beneficiary" means an annuitant, employee or family member who is enrolled in a basic health benefits plan and, at the time of notification hereunder, is within the Medicare Initial Enrollment Period.

(4) "Medicare-Eligible" means eligible for Medicare Part A without cost and Part B.

(5) "Medicare Plan" means a Medicare supplement or Medicare-risk health benefits plan approved or contracted for by the board.

(6) "Deferral of Part B Enrollment" means deferral of Part B enrollment by a Medicare-eligible state or a contracting agency employee who, pursuant to federal law and regulations, has deferred enrollment in Part B of Medicare because he or she is actively employed and covered by a basic health benefits plan by virtue of that employment.

(b) Enrollment and continuation in a basic health benefits plan.

(1) Except as set forth below, Post-1997 Basic Health Plan Enrollees, Post-2000 CSU Basic Health Plan Enrollees, and Prospective Medicare Beneficiaries who are Medicare-eligible may not continue to be enrolled in a basic health benefits plan.

(2) A Medicare-eligible individual who applies for initial enrollment in a basic health benefits plan, or re-enrollment after a break in coverage, shall not be permitted to enroll in a basic plan notwithstanding the fact that he or she was enrolled in an employer-sponsored basic health plan prior to, or on the date of, the application for enrollment.

(3) A Medicare-eligible state or contracting agency employee who has deferred his or her enrollment in Part B, may continue to be enrolled in a basic health benefits plan until the earlier of retirement or termination of employment. Such employee must notify the Board immediately upon termination of his or her

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deferred status and must enroll in Part B of Medicare during his or her special enrollment period.

(c) Notice of Requirement to Enroll in Medicare.

(1) Post-1997 Basic Health Plan Enrollees and Post-2000 CSU Basic Health Plan Enrollees. No later than December 1, 2004, the Board shall provide notice to Post-1997 Basic Health Plan Enrollees and Post-2000 CSU Basic Health Plan Enrollees of their requirement to enroll in Part B of Medicare. This notice shall provide that (a) if they are Medicare-eligible they may not remain in a basic plan, (b) if they are eligible for Part A of Medicare without cost, they must enroll in Part B of Medicare and in a Medicare Plan in order to retain health plan coverage; and (c) the failure to provide the board with satisfactory evidence of enrollment in Part B, ineligibility for Part A without cost, or deferral of Part B enrollment will result in the termination of their basic plan enrollment.

(2) Prospective Medicare Beneficiaries. Commencing four (4) months prior to a Prospective Medicare Beneficiary's 65th birth month, the Board shall provide notice of the requirement to enroll in Medicare. This notice shall inform the Prospective Medicare Beneficiary that if he or she is Medicare-eligible, he or she may not remain in a basic health benefits plan and must timely enroll in Part B of Medicare and a Medicare Plan in order to retain health plan coverage. The notice shall also inform the Prospective Medicare Beneficiary that failure to provide the board with satisfactory evidence of enrollment in Part B, ineligibility for Part A of Medicare without cost, or deferral of Part B enrollment will result in the termination of his or her basic plan enrollment.

(d) Termination of enrollment in a basic health benefits plan.

(1) On or before March 31, 2005, Post-1997 Basic Health Plan Enrollees and Post-2000 CSU Basic Health Plan Enrollees shall provide the Board with satisfactory evidence of application for enrollment in Part B of Medicare during the 2005 Medicare open enrollment period, ineligibility for enrollment in Part A of Medicare without cost, or deferral of Part B enrollment. Failure to do so will result in termination of basic plan enrollment effective April 1, 2005.

(2) On or before June 1, 2005, a Post-1997 Basic Health Plan Enrollee or a Post-2000 CSU Basic Health Plan Enrollee who applied to enroll in Part B of Medicare during the 2005 open enrollment period shall provide the Board with satisfactory evidence of enrollment in Part B of Medicare and an application for enrollment in a Medicare plan. Failure to do so will result in termination of basic plan enrollment effective July 1, 2005.

(3) The basic plan enrollment of a Prospective Medicare Beneficiary who fails to provide to the Board satisfactory evidence of enrollment in Part B of Medicare, ineligibility for Part A of Medicare without cost, or deferral of Part B enrollment by the last day of his or her birth month, will be terminated effective the first of the subsequent month.

(4) To the full extent permitted by law, the Board shall have no liability for any costs, losses or damages incurred by any person as a result of, or arising

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from or related to, the termination of basic health benefits plan coverage in accordance with this section.

(e) Enrollment in a Supplemental Plan.

(1) Post-1997 Basic Health Plan Enrollees, Post-2000 CSU Basic Health Plan Enrollees, and Prospective Medicare Beneficiaries who are Medicare-eligible may enroll in a Medicare Plan by submitting an application to the Board and proof of enrollment in Parts A and B of Medicare. Enrollment in the Medicare Plan shall be effective on the date Medicare coverage became effective or the first of the month following receipt of the application, whichever is later.

(2) Notwithstanding (1) above, a person whose coverage has been terminated pursuant to subsection (d) and who subsequently submits evidence of enrollment in Parts A and B of Medicare may only enroll in a Medicare Plan under the following conditions:

(A) If the application and proof of enrollment in Parts A and B of Medicare are submitted within 90 days of the date that basic plan coverage terminated, enrollment in the Medicare Plan shall be retroactive to the effective date of Medicare coverage or a date 90 days prior to the submission of evidence of Medicare enrollment, whichever is later.

(B) If the application and proof of enrollment in Parts A and B of Medicare are submitted more than 90 days after the date that basic plan coverage terminated, the effective date of enrollment shall be the first of the month following receipt of the application or, if applicable, the effective date of coverage under open enrollment.

(f) Enrollment in a basic health benefits plan after termination.

If a person whose basic plan coverage has been terminated pursuant to subsection (d) subsequently submits satisfactory written confirmation that he or she is either not eligible for Part A of Medicare without cost or has deferred enrollment in Part B of Medicare, he or she may enroll in a basic health benefits plan under the following conditions:

(1) If the documentation is received by the Board within 90 days of the date that coverage terminated, re-enrollment in a basic plan shall be retroactive to the date coverage terminated.

(2) An application for enrollment received more than 90 days after basic plan coverage has terminated may be submitted only during a CalPERS Health Benefits Open Enrollment period.

(g) Request for administrative review — termination of enrollment in basic health benefits plan.

(1) A person who has been notified that his or her enrollment in a basic plan has, or will be, terminated pursuant to subsection (d), may request an administrative review of the termination. The filing of a request for administrative review shall not delay the termination of basic plan enrollment.

(2) A request for administrative review must be filed with the Health Branch Assistant Executive Officer within 90 days of the termination date or the

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date of the notice of termination, whichever is later. The request for administrative review shall be in writing, state the grounds on which it is requested, the relief that is sought, and include all supporting evidence.

(3) The Health Branch Assistant Executive Officer or his or her designee shall acknowledge the request within 15 days of receipt. The Health Branch Assistant Executive Officer or his or her designee shall review the request and may request additional documentation. Written notification of the decision shall be mailed within 60 days of receipt of all pertinent information.

(h) Request for administrative review — effective date of Medicare Plan enrollment.

(1) A person whose enrollment in a Medicare Plan is delayed pursuant to subsection (e)(2)(B) due to failure to timely submit evidence of enrollment in Part B of Medicare, may seek administrative review of the basis for the delayed effective date. The filing of a request for administrative review shall not delay the termination of basic plan enrollment.

(2) A request for administrative review must be filed with the Health Branch Assistant Executive Officer within 90 days of the notice of the effective date of enrollment in the Medicare Plan. The request for administrative review shall be in writing, state the grounds on which it is requested, the relief that is sought, and include all supporting evidence.

(3) The Health Branch Assistant Executive Officer or his or her designee shall acknowledge the request within 15 days of receipt. The Health Branch Assistant Executive Officer or his or her designee shall review the request and may request additional information. Written notification of the decision shall be mailed within 60 days of receipt of all pertinent information.

NOTE: Authority cited: Sections 22794 and 22796, Government Code. Reference: Section 22844, Government Code.

HISTORY:

1. New section filed 3-22-2004 as an emergency; operative 3-22-2004 (Register 2004, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-20-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-22-2004 order, including amendment of section, transmitted to OAL 7-20-2004 and filed 8-31-2004 (Register 2004, No. 36).
3. Change without regulatory effect amending subsection (a) and Note filed 10-31-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 599.518. Coverage: Member Health Appeals Process.

Prior to appealing to the board and accorded an opportunity for a fair hearing pursuant to Government Code section 22848, an employee or annuitant must complete the requirements in subsections (b) and (c), if applicable.

(a) As used in this section and Government Code section 22848:

(1) "Administrative hearing'' means the fair hearing described in Government Code section 22848.

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(2) "Administrative review'' means the process by which an employee or annuitant appeals to the board as permitted under Government Code section 22848.

(3) "Complaint'' means the same as "grievance.''

(4) "Coverage'' means a health benefit provided by a plan to employees and annuitants and their family members and described in the plan's evidence of coverage.

(5) "Dissatisfied with any action or failure to act'' means a complaint or grievance an employee or annuitant may have regarding his or her coverage or the coverage of his or her family members.

(6) "Evidence of coverage'' means a booklet provided by a plan to employees and annuitants and their family members describing their coverage and in effect for the period when an employee or annuitant has a complaint or grievance.

(7) "Grievance'' means a written or oral expression of dissatisfaction regarding coverage and shall include a complaint, dispute, request for reconsideration or appeal made by an employee or annuitant. Where it is not possible to distinguish between a grievance and an inquiry, it shall be considered a grievance.

(b) Exhaustion of complaint or grievance process.

An employee or annuitant who is dissatisfied with any action or failure to act in connection with his or her coverage or the coverage of his or her family members must file a complaint or grievance and participate in and exhaust the complaint or grievance process, including all levels of appeal, provided by the plan in which he, she or any family member is enrolled.

(c) Exhaustion of other appeals processes.

If the employee or annuitant is dissatisfied with the decision from the plan's complaint or grievance process as described in subsection (b), the employee or annuitant may request an administrative review as described in subsection (d) unless the employee or annuitant's complaint or grievance is eligible for one of the appeals processes listed in paragraphs (1) through (3) of this subsection. The plan's evidence of coverage will provide information about eligibility for the appeals processes listed in paragraphs (1) through (3) of this subsection. If the employee or annuitant's complaint or grievance is eligible for one of the appeals processes listed in paragraphs (1) through (3) of this subsection, the employee or annuitant must participate in and exhaust that appeals process before requesting an administrative review.

(1) The Department of Managed Health Care's complaint system.

(2) The Department of Managed Health Care's independent medical review system.

(3) The external review process administered by a plan in accordance with the Patient Protection and Affordable Care Act (Pub. L. No. 111-148).

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(d) Request for administrative review.

If an employee or annuitant is dissatisfied with the decision from the appeals processes outlined in subsection (b) or subsection (c), he or she may request an administrative review of the decision. Only requests that involve an issue regarding coverage are eligible for an administrative review. The employee or annuitant must request an administrative review and receive a decision from the unit charged with the processing and oversight of health appeals before the employee or annuitant may request an administrative hearing. An employee or annuitant may not request an administrative review if he or she decides to resolve a complaint or grievance through arbitration or by filing a civil action in a court of competent jurisdiction as may be provided for in the plan's evidence of coverage. Complaints or grievances alleging medical malpractice, quality of care or quality of services provided by a plan are not eligible for administrative review.

(1) A request for administrative review must be filed with the unit charged with the processing and oversight of health appeals within thirty (30) days of the date the employee or annuitant receives a decision from an appeals process described in subsection (b) or (c). The request for administrative review shall be in writing, state the grounds on which it is requested, the relief that is sought and include all supporting evidence. Supporting evidence includes, but is not limited to, copies of medical records, statements of health care providers, and copies of medical bills submitted or paid by the employee or annuitant.

(2) The unit charged with the processing and oversight of health appeals shall acknowledge the request for administrative review in writing within 15 days of receipt of the request. The unit charged with the processing and oversight of health appeals shall review the request and may request additional documentation. If the employee or annuitant does not provide the requested additional documentation within the timeframe specified by the unit charged with the processing and oversight of health appeals, CalPERS may terminate the administrative review. Written notification of the administrative review decision shall be mailed to the employee or annuitant within 60 days of receipt of all pertinent information.

(e) Request for administrative hearing.

If an employee or annuitant is dissatisfied with the administrative review decision, he or she may request an administrative hearing.

(1) An employee or annuitant must request an administrative hearing in writing within 30 days of the date of the administrative review decision. The date of the administrative review decision will be indicated on the written notification the unit charged with the processing and oversight of health appeals is required to send to the employee or annuitant pursuant to subsection(d)(2). Upon satisfactory showing of good cause, CalPERS may grant additional time to file a request for an administrative hearing, not to exceed thirty (30) days. Good cause includes, but is not limited to, delays in receiving additional documents

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supporting the employee or annuitant's case, inability to file timely for causes beyond the employee or annuitant's control, and acts of nature.

(2) The request for an administrative hearing must set forth the facts and the law upon which the request is based. The request should include any additional arguments and evidence favorable to an employee or annuitant's case not previously submitted for administrative review. An employee or annuitant may, but is not required to, be represented by an attorney.

(3) If the request for an administrative hearing is granted, it will be conducted in accordance with the Administrative Procedure Act (Title 2, Division 3, Part 1 (commencing with Section 11500) of the Government Code). After taking testimony and receiving evidence, an administrative law judge will issue a proposed decision and this decision will be presented to the board. If the board adopts the proposed decision as its own decision at an open meeting, this decision will be provided in writing to the employee or annuitant within two weeks of the board's open meeting where the decision was adopted.

(4) An employee or annuitant who is dissatisfied with the board's decision as described in paragraph (3) of this subsection may petition the board for reconsideration or may appeal to the Superior Court. An employee or annuitant may not pursue civil legal remedies until after exhausting administrative review and an administrative hearing.

(f) This section shall apply to employees and annuitants enrolled in a supplemental plan if their dissatisfaction with any action or failure to act in connection with their coverage or the coverage of their family members involves a health benefit provided by the plan that is not a health benefit covered by Medicare.

(g) The requirements specified in subsections (b) and (c) shall not apply to an employee or annuitant who is dissatisfied with any action or failure to act in connection with his or her eligibility for coverage or the eligibility for coverage of his or her family members.

NOTE: Authority cited: Sections 22794 and 22796, Government Code. Reference: Section 22848, Government Code

HISTORY:
1. New section filed 11-3-2014; operative 1-1-2015 (Register 2014, No. 45).

ARTICLE 2. PREFUNDING PLAN FOR HEALTH CARE COVERAGE FOR ANNUITANTS

§ 599.550. Definitions.

For purposes of this article:

(a) "Health care coverage for annuitants" means postemployment healthcare benefits and other postemployment benefits provided to terminated or retired employees and their dependents and beneficiaries. For purposes of this definition, "postemployment healthcare benefits" means medical, dental, vision,

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and other health-related benefits, and "other postemployment benefits" means postemployment benefits other than pension benefits, including life insurance, disability, and long-term care benefits."

(b) "Participating employer" means an employer, as defined at Government Code section 22942, that has elected to participate in the prefunding plan and that contracts with CalPERS, which contract sets forth the terms and conditions of the participating employer's participation in the prefunding plan.

(c) "Prefunding plan" means the Annuitants' Health Care Coverage Fund that is a trust fund intended to meet the requirements of Section 115 of the Internal Revenue Code and that is established pursuant to Government Code section 22940 to provide healthcare coverage for annuitants. The prefunding plan is sometimes referred to as the California Employers' Retiree Benefit Trust or CERBT.

NOTE: Authority cited: Section 22796, Government Code. Reference: Sections 22940 and 22942, Government Code.

HISTORY:
1. New article 2 (sections 599.550-599.554) and new section filed 1-26-2007; operative 1-26-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 4).
2. New section heading and amendment of subsections (b) and (c) and Note filed 3-28-2011; operative 4-27-2011 (Register 2011, No. 13).

§ 599.552.

(a) The board may, in its discretion and upon terms and conditions set by the board, authorize an employer to participate in the prefunding plan.

(b) The governing body of a participating employer shall enter into a contract with the board, setting forth the terms and conditions of the employer's participation in the prefunding plan. The contract may be in the form of a resolution adopted pursuant to Section 22922.

(c) Upon approval by the board, an employer subject to the Public Employees' Medical and Hospital Care Act may file a new resolution with the board or amend an existing resolution on file with the board, to allow the employer to become a participating employer.

NOTE: Authority cited: Sections 22796 and 22922, Government Code. Reference: Sections 22922, 22940 and 22942, Government Code.

HISTORY:
1. New section filed 1-26-2007; operative 1-26-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 4).

§ 599.553.

(a) The terms and conditions of the contract or resolution for participation in the prefunding plan shall include, but not be limited to, the following:

(1) Disbursements from the prefunding plan;

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(2) The methodology and assumptions used to calculate the actuarial accrued liability for health care coverage for annuitants;

(3) The method of payments to and disbursements from the prefunding plan;

(4) The frequency and content of reports from the participating employer to the prefunding plan;

(5) The frequency and content of reports from the prefunding plan to the participating employer;

(6) The allocation of prefunding plan investment income to the participating employer;

(7) The allocation of administrative costs and expenses of the prefunding plan to the participating employer;

(8) The circumstances and requirements for transfer of assets into or out of the prefunding plan, provided that any such transfers:

(A) must be in accordance with the terms of the contract or resolution, and

(B) must satisfy the requirements of Section 115 of the Internal Revenue Code.

(9) The board may terminate the participation of a participating employer in the prefunding plan if:

(A) a participating employer elects to terminate participation in the prefunding plan;

(B) the board finds that the participating employer has failed to satisfy the terms and conditions required by this article, by board rules or regulations, or by the contract or resolution approved by the governing body of the participating employer and filed with the board; or

(C) the board terminates the prefunding plan.

(b) If participation in the prefunding plan terminates for a reason described in subdivision (a)(9)(A) or (B), then the assets attributable to the contributions by that employer shall remain in the prefunding plan for the continued payment of postemployment health care coverage for annuitants and the costs of administration, pursuant to the terms and conditions of participation established by the board and as agreed to by the employer.

(c) If participation in the prefunding plan is terminated by the board as described in subdivision (a)(9)(C), then the assets attributable to the contributions by participating employers shall be paid in the following order:

(1) The board shall retain for disbursement to annuitants an amount sufficient to pay the health care benefits to annuitants for current and future annuitants.

(2) The board shall retain for payment an amount sufficient to pay reasonable administrative costs.

(3) After the amounts described in paragraphs (1) and (2) have been retained or disbursed, the board shall pay to each participating employer in the prefunding plan on the date of termination, a pro rata share of the remaining

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assets in the prefunding plan. The board shall determine that pro rata share based on the ratio that the participating employer's accumulated contributions bear to the accumulated contributions of all participating employers.

NOTE: Authority cited: Sections 22796 and 22922, Government Code. Reference: Sections 22922, 22940 and 22942, Government Code.

HISTORY:
1. New section filed 1-26-2007; operative 1-26-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 4).

§ 599.554. Administrative Costs.

The board shall determine the amount of administrative costs and expenses of the prefunding plan to be paid to the board by each participating employer in accordance with the terms of the contract or resolution.

NOTE: Authority cited: Sections 22796 and 22922, Government Code. Reference: Sections 22922, and 22940, Government Code.

HISTORY:
1. New section filed 1-26-2007; operative 1-26-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 4).

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ARTICLE 1. GENERAL PROVISIONS

§ 75000. Title

This chapter shall be known and may be cited as the "Judges' Retirement Law."

The retirement system established by this chapter shall be known and may be cited as the "Judges' Retirement System."

(Added by Stats. 1953, Ch. 206; amended by Stats. 1980, Ch. 1213.)

§ 75001. Construction

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

(Added by Stats. 1953, Ch. 206.)

§ 75002. "Judge"

"Judge" means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, municipal court, or justice court. A retired justice court judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a judge pro tempore of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

"Judge" shall not mean a justice court judge who elected pursuant to Section 75029.5 to be restored to membership in the Public Employees' Retirement System.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1959, Ch. 744; by Stats. 1967, Ch. 17; by Stats. 1989, Ch. 1417; and by Stats. 1994, Ch. 235.)

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§ 75003. "Salary"

"Salary" means the compensation received by a judge as the emolument of the office of judge, and as limited by Section 75075.02, but, except as provided by Section 75076.2, does not include any additional compensation received by reason of designation as a judge pro tempore, assignment by the Chairperson of the Judicial Council, or the additional compensation pursuant to Section 68203.1.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1959, Ch. 744; by Stats. 1989, Ch. 1417; by Stats. 1995, Ch. 829; and by Stats. 2001, Ch. 118, effective 7/30/01.)

§ 75004. "Service"

"Service" means the period of time a person has made contributions by reason of holding office as a judge of any one or more of the courts of this state specified in Section 75002, computed in years and fractions of years.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1989, Ch. 1417.)

§ 75004.5. "Spouse"—Domestic Partnership

All references to "spouse," "surviving spouse," or "marriage" in this chapter apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

(Added by Stats. 2012, Ch. 833.)

§ 75005. Administration

Notwithstanding any other provision of law, this chapter shall be administered and governed by the Board of Administration of the Public Employees' Retirement System in accordance with the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in the Judges' Retirement Law, except for those provisions which provide for the payment of an allowance or other benefit and except for those provisions which conflict with any provision of the Judges' Retirement Law. To the extent applicable, the Board of Administration of the Public Employees' Retirement System shall also administer this chapter in conformance with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to the same extent and with the same effect as if the provisions of the act are contained in the Judges' Retirement Law. If the Board of Administration of the Public Employees' Retirement System determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and this chapter, the provisions of the California Public Employees' Pension Reform Act of 2013

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shall control. "State Controller" or "Controller" as used in this chapter, or any other provision of law relating to the chapter, shall be construed to refer to and mean the "Board of Administration of the Public Employees' Retirement System"; however, the Controller shall continue to perform the duties prescribed in Sections 75092, 75097, 75101, and 75102.

All payments from the Judges' Retirement Fund shall be made upon warrants drawn by the Controller upon demands by the Board of Administration of the Public Employees' Retirement System.

(Added by Stats. 1978, Ch. 384, operative 7/1/79; amended by Stats. 1983, Ch. 909; by Stats. 1986, Ch. 115; and by Stats. 2013, Ch. 526.)

§ 75006. Final Payment Following Death

(a) Any allowance payable to a retired judge or to a surviving spouse or to an eligible surviving child which has accrued and remained unpaid at the time of the judge's or the surviving spouse's or surviving child's death, or any unclaimed warrant issued prior to the date of death and returned to the system, shall be paid pursuant to the following order:

(1) The survivor entitled to an allowance payable by this system.

(2) The beneficiary designated by the surviving spouse, eligible surviving child, or retired judge if there is no eligible survivor.

(3) The estate of the deceased, if there is no one entitled to payment under paragraph (1) or (2). The payment to the estate shall be paid to either the estate of the deceased or the duly authorized representative or representatives of the estate when this system receives a court order appointing an executor, administrator, or personal representative.

(4) If the estate does not require probate and the deceased has a trust, the payment may, in the judgment of the board, be paid to the successor trustee named in the trust.

(5) If the estate does not require probate and the deceased does not have a trust, the payment may, in the judgment of the board, be paid to the beneficiary or beneficiaries of the deceased named in a valid will.

(b) If there is no qualifying beneficiary pursuant to paragraphs (1) to (5), inclusive, of subdivision (a), the payment shall be paid to the surviving next of kin of the deceased pursuant to the order of distribution specified in Section 21493.

(Added by Stats. 1984, Ch. 848; amended by Stats. 1988, Ch. 992; amended by Stats. 2009, Ch. 130.)

§ 75006.6. Final Payment Following Death—Beneficiary Designation

The surviving spouse or eligible surviving child of a deceased judge who is receiving a monthly allowance from the Judges' Retirement System, or a retired judge, if there is no spouse or eligible child, may designate a beneficiary to receive the pro rata allowance remaining payable in the month of his or her death.

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The designation may be made, changed or revoked at any time, provided that it is made in writing and filed with the Judges' Retirement System.

(Added by Stats. 1988, Ch. 992.)

ARTICLE 2. RETIREMENT FOR SERVICE

§ 75025. Eligibility for Benefits

Every judge who has the age and service qualifications specified in one of the following subdivisions, and who is not ineligible for retirement under Section 75026, shall be retired for service upon filing notice of retirement with the Judges' Retirement System, specifying the date upon which his or her retirement is to become effective:

(a) Age 70 or older, with an aggregate of 10 years of service as a judge within the 15 years immediately preceding the effective date of retirement.

(b) Age 69, with an aggregate of 12 years of service as a judge within the 16 years immediately preceding the effective date of retirement.

(c) Age 68, with an aggregate of 14 years of service as a judge within the 18 years immediately preceding the effective date of retirement.

(d) Age 67, with an aggregate of 16 years of service as a judge within the 20 years immediately preceding the effective date of retirement.

(e) Age 66, with an aggregate of 18 years of service as a judge within the 22 years immediately preceding the effective date of retirement.

(f) Age 65, with an aggregate of 20 years of service as a judge within the 24 years immediately preceding the effective date of retirement.

(g) Age 70 or older, with an aggregate of 20 years of service as a judge, the last five years of which has been served immediately preceding the effective date of retirement.

(h) Age 60, with an aggregate of 20 years of service as a judge.

Upon the effective date of the retirement of any judge, the judicial office from which he or she has retired shall become vacant, and a successor shall thereupon be appointed to fill the vacancy.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1957, Ch. 1060; by Stats. 1983, Ch. 395; and by Stats. 1991, Ch. 90, effective 6/30/91.)

§ 75025.1. Final Notice of Retirement

A judge whose service is discontinued by the expiration of his term of office and who is otherwise eligible to retire under this chapter may file the notice of retirement provided for in Section 75025 or an election to retire under Section 75033.5 within 90 days after such termination, which notice or election shall be effective as though filed at the close of his term. A judge whose service is discontinued by other than the expiration of his term of office and who is otherwise eligible to retire under this chapter must file the notice of retirement

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provided for in Section 75025 or an election to retire under Section 75033.5 prior to the effective date of his retirement, and the effective date of his retirement cannot be earlier than the date when the notice of retirement is filed with the Judges' Retirement System.

(Added by Stats. 1976, Ch. 862; amended by Stats. 1983, Ch. 395.)

§ 75026. Retirement Fund Contributions

Except as provided in Section 75029, no judge shall be eligible to retire under Section 75025 if he or she has not received a salary from which contributions for the Judges' Retirement Fund have been deducted for a period or periods aggregating at least 10 years unless, prior to the effective date of his or her retirement, he or she has paid into the Judges' Retirement Fund a sum equal to the contributions which would have been deducted from his or her salary during the period of 10 years immediately preceding the effective date of his or her retirement if he or she had received a salary subject to deduction of contributions for the Judges' Retirement Fund during all of that period, excluding any time within the 10-year period during which contributions for the Judges' Retirement Fund were actually deducted from his or her salary, any time in that period in respect to which he or she has made payment under Section 75029, and any time in that period which is included in the computation of his or her service under Section 75031. The sum payable shall be computed by applying the rate or rates of deduction applicable to judges' salaries during that time to the salary which the judge last received as the incumbent of a judicial office to which he or she was elected by the people.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1989, Ch. 1417.)

§ 75027. Expiration of Term Before Minimum Age or Service

Any judge whose term of office expires within 60 days before he or she has rendered the minimum service required for retirement at his or her age shall be deemed to have rendered that minimum service.

Any judge whose term of office expires within 60 days before he or she attains the age required for his or her retirement, shall be deemed to have attained that age at any time during the 60-day period immediately preceding his or her actual attainment of that age.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1989, Ch. 292.)

§ 75028. Judge Pro Tempore; Senior Judge Compensation

(a) Except as provided in Sections 75060.6, 75080, and 68543.5, any designation as a judge pro tempore or any assignment by the Chairperson of the Judicial Council shall be disregarded for purposes of this chapter. For the

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purposes of this chapter no person shall acquire status as a judge, nor shall any person's status as a judge be affected, by any such designation or assignment.

(b) A judge who elects to be available for full-time service on senior judge status after the effective date of retirement, shall be compensated by the state for that time at a rate equal to the full compensation of a judge of the court from which he or she retired or, at the judge's election, at a rate equal to the full compensation of a judge of the court to which he or she is assigned. A judge serving on senior judge status also shall be eligible for travel, board, and lodging expenses, as provided in Section 68543.5.

(Added by Stats. 1953, Ch. 206 § 1; amended by Stats. 1959, Ch. 744; by Stats. 1961, Ch. 681; by Stats. 1984, Ch. 1586, operative 7/1/85; and by Stats. 1988, Ch. 1310.)

§ 75028.1. Senior Judge Status: Application

(a) At the time of the filing of a notice of retirement under the Judges' Retirement Law to be effective after 69½ years of age but before the end of the term of office during which the judge attains 70 years of age, a judge may apply to the chairperson of the Judicial Council for senior judge status.

(b) A retired judge who retired under the Judges' Retirement Law before July 1, 1985, and who has attained 60 years of age, may apply to the Chairperson of the Judicial Council for senior judge status.

(c) A judge who has left office at 60 years of age or older on or after July 1, 1985, and who has 20 years or more of retirement service credit under the Judges' Retirement Law, may apply to the Chairperson of the Judicial Council for senior judge status.

(d) A judge serving on senior judge status shall serve full time as assigned for up to five consecutive years and by accepting that status waives the right to refuse any assignment as otherwise provided by law. A judge who elects to retire under this section is deemed retired, and the judicial office from which the judge retired shall become vacant and a successor shall then be appointed to fill the vacancy.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1988, Ch. 1310; by Stats. 1991, Ch. 90, effective 6/30/91, and Ch. 189, effective 7/27/91; and by Stats. 1992, Ch. 1032.)

§ 75028.2. Senior Judge Status: Retirement Allowance

A retired judge on senior judge status shall not receive a retirement allowance, except for health and welfare benefits generally available to judges of courts on which the judge served as an active judge.

The Controller shall administer payment of salary to retired judges on senior judge status and for making any appropriate deductions.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1988, Ch. 544.)

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§ 75028.3. Senior Judge Status: Termination of Status

Notwithstanding any other provision of law, senior judge status shall terminate at the end of five years, except that the status shall terminate earlier when any of the following occurs:

(a) The judge on senior judge status requests termination.

(b) The judge fails to perform service as assigned.

(c) The Commission on Judicial Performance so orders.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1988, Ch. 1310; by Stats. 1991, Ch. 90, effective 6/30/91; and by Stats. 1992, Ch. 1032.)

§ 75028.4. Senior Judge Status: Benefits upon Termination or Death

(a) A judge whose senior judge status is terminated may elect to receive the retirement benefits for which the judge was eligible at the time he or she elected senior judge status.

(b) If the senior judge status is terminated before the end of five years because of the judge's death, any surviving spouse benefit that is payable, as provided in the section under which the judge retired prior to electing the senior judge status, shall be paid.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1992, Ch. 1032.)

§ 75028.5. Redeposit of Withdrawn Contributions

After a judge has withdrawn his or her accumulated contributions upon discontinuance of his or her service, that service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges' Retirement Fund the amount of accumulated contributions withdrawn by him or her, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of withdrawal to the date of his or her payment.

(Added by Stats. 1st Ex Sess 1962, Ch. 62, effective 5/1/62; amended by Stats. 1978, Ch. 50, effective 3/17/78; by Stats. 2002, Ch. 664; and by Stats. 2009, Ch. 130.)

§ 75028.6. Senior Judge Status: Termination of Program

The senior judge status program shall terminate on January 1, 1997. No person may elect senior judge status or exercise any of the rights thereof on or after that date, except that all persons holding senior judge status on that date may exercise the termination rights specified in Section 75028.4.

(Added by Stats. 1992, Ch. 1032.)

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§ 75029. Prior Service: Judge of an Excluded Court

For any judge who, prior to becoming a judge, served as a "judge of an excluded court" as defined below, there shall be included in the computation of the number of years of service as a judge the number of years he or she served as a "judge of an excluded court" if prior to the effective date of his or her retirement he or she has paid into the Judges' Retirement Fund a sum equal to the amount that would have been deducted from his or her salary and paid into that fund had he or she been a judge, during the time he or she was a "judge of an excluded court," computed by applying to the rate of salary that he or she actually received during his or her first year of service as a judge the rate of deduction applicable to judges' salaries during that year.

As used in this section "judge of an excluded court" means a judge of a justice court or a judge, justice of the peace, or recorder of a court provided for by law prior to January 1, 1952.

A judge shall not, under this section, receive credit for that portion, if any, of his or her service as a judge of an excluded court, if other provisions of this chapter provide for the inclusion of that service in the computation of his or her years of service as a judge.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1957, Ch. 2149; and by Stats. 2002, Ch. 664.)

§ 75029.1. Prior Service: Judge of an Excluded Court after 1/1/90

On and after January 1, 1990, the right to elect to receive credit for prior service as a judge of an excluded court pursuant to Section 75029 shall apply only to a justice of the Supreme Court or a court of appeal or a judge of a superior or municipal court.

(Added by Stats. 1989, Ch. 1417.)

§ 75029.2. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75029.5. Prior Service: Justice Court Judge

Notwithstanding any other provision of law, any justice court judge who was a member of the Public Employees' Retirement System on December 31, 1989, and became a member of this system on January 1, 1990, pursuant to Chapter 1417 of the Statutes of 1989, may irrevocably elect to be restored to membership in the Public Employees' Retirement System effective January 1, 1990. The board shall provide the affected members with an election period commencing on July 1, 1992, and ending on September 30, 1992.

Any justice court judge who elects membership in the Public Employees' Retirement System pursuant to this section shall be refunded his or her

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accumulated contributions in this system for the period January 1, 1990, through the date of election and deposit in the Public Employees' Retirement Fund the amount required by that system.

(Added by Stats. 1992, Ch. 176, effective 7/13/92.)

§ 75030. Repealed

(Repealed by Stats. 1959, Ch. 597.)

§ 75030.5. Prior Service: State Constitutional Officer or Legal Public Officer

Any judge who first becomes a judge on or after May 1, 1962, and who has served as an elected state constitutional officer before becoming a judge, or any judge who first became a judge prior to that date who has served as a constitutional officer or as a public legal officer before becoming a judge, has a right to elect, by written election filed with the Judges' Retirement System at any time prior to retirement, to make contributions pursuant to this section for, and receive credit in this system as, service for all or any part of the time he or she served as that officer, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

As used in this chapter, the term "elected state constitutional officer" means the holder of the office of Member of the Senate or Assembly, Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Superintendent of Public Instruction, or member of the State Board of Equalization.

As used in this chapter, the term "constitutional officer" means the holder of an office created by the California Constitution, and "public legal officer" means the holder of any legal office of the state or any agency of the state or of any county or city in the state who is paid a salary or other fixed regular compensation and who is admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature, such as the Attorney General, Legislative Counsel, Commissioner of Corporations, a district attorney, county counsel, city attorney, city prosecutor, public defender, or a deputy of any such office, or a secretary to the Governor whose duties include the hearing of extradition matters, admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature.

Every judge electing to receive credit for service pursuant to this section shall at the time of filing his or her election, and as a condition to receiving that credit, pay into the Judges' Retirement Fund a sum equal to the amount which would have been deducted from his or her salary and paid into that fund pursuant to Section 75102 had he or she been a judge during the time for which he or she elects to receive credit for service, computed by applying the rates of deduction applicable to judges'

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salaries during that time to the rate of salary the judge actually received during the first year as a judge, plus interest at 3 percent a year, to the date of his or her payment, upon the amounts of the deductions and from the respective dates they would have been paid had he or she been a judge during the time for which he or she elects to receive credit for service. The amount and interest shall be determined by the Judges' Retirement System in accordance with this section. Funds transferred to the Judges' Retirement Fund pursuant to Section 9356.5 shall be deducted from the payment. Any funds so transferred which are in excess of the amount required by this section shall be refunded to the judge.

This section shall not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, in a term which commences on or after January 1, 1986.

(Added by Stats. 1957, Ch. 2168; amended by Stats. 1959, Ch. 2186; by Stats. 1961, Ch. 2135; by Stats. 1st Ex Sess 1962, Ch. 62, effective 5/1/62; by Stats. 1980, Ch. 1213; by Stats. 1985, Ch. 1359; by Stats. 1986, Ch. 115; and by Stats. 1987, Ch. 56.)

§ 75030.6. Prior Service: Minimum Current Service

On and after October 1, 1961, the right to elect to receive credit for service pursuant to Section 75030.5 shall apply only to a judge who has served as a judge as defined by Section 75002 for at least six years or who is elected to the office of judge as defined by Section 75002. This section shall not apply to any judge who is a member of this system on September 30, 1961, or to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

(Added by Stats. 1961, Ch. 1773; amended by Stats. 1985, Ch. 1359.)

§ 75030.7. Prior Service: Federal Judicial Officer

Any judge has a right to elect, by written election filed with the Judges' Retirement System at any time prior to retirement, to make contributions pursuant to this section for, and receive service credit in this system for all of the time he or she served as a federal judicial officer, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

As used in this section, the term "federal judicial officer" means federal justice, federal judge, and federal magistrate judge.

Every judge electing to receive credit for service pursuant to this section shall at the time of filing his or her election, pay into the Judges' Retirement Fund a sum equal to actuarial present value of the increase in benefit due to the additional service. The amount shall be determined by the Judges' Retirement System in accordance with this section.

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(Added by Stats. 1998, Ch. 996.)

§ 75030.8. Prior Service: Subordinate Judicial Officer

(a) A judge may elect, by written election filed with the board at any time prior to retirement, to make contributions and receive service credit for all of the time he or she served as a full-time subordinate judicial officer, as defined in Section 71601, prior to becoming a judge, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

(b) A judge electing to receive credit for service pursuant to subdivision (a) shall, at the time of filing his or her election, pay to the Judges' Retirement Fund, a sum equal to the actuarial present value of the increase in benefits due to the additional service. The amount shall be determined by the Judges' Retirement System in accordance with this section.

(Added by Stats. 2001, Ch. 433; renumbered by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 75030.9. Legislator Not Returned to Office: Elected Constitutional or Legal Officer

A Member of the Senate or Assembly whose contributions as a judge remain on deposit in the fund under Section 75033, shall, during the term of office for which he or she was elected:

(a) Have a right under Section 75030.5 to elect by written election filed with the Judges' Retirement System at any time prior to his or her retirement, to make contributions pursuant to Section 75030.5 and to receive credit in this system as service rendered for all or any part of his or her service as an elected state constitutional officer, or as a public legal officer, as defined in Section 75030.5, either before or after his or her service as a judge, excluding any period of time for which he or she is receiving or is entitled to receive a retirement allowance from any other public retirement system. This subdivision does not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

(b) Be retired as a judge under Section 75025 upon attaining, as provided in this section, the age and service requirements specified in that section.

For the purposes of this section, "service as an elected state constitutional officer" includes all or any portion of the term of office for which he or she was duly elected as an elected state constitutional officer as specified by law at the time of his or her election.

(Added by Stats. 1968, Ch. 909; amended by Stats. 1985, Ch. 1359; by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 664.)

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§ 75030.10. Public Legal Officer

Any person who filed a declaration of candidacy for a judicial office pursuant to Section 8023 or 8201 of the Elections Code prior to May 1, 1962, and was elected to that office at the subsequent election, may elect pursuant to the provisions of Section 75030.5 to make contribution for, and receive credit in this system as service, time served as a public legal officer as defined in Section 75030.5. The contributions authorized by this section shall be made at the rate provided in Section 75102 on the effective date of this section.

(Added by Stats. 1970, Ch. 314; amended by Stats. 1994, Ch. 923.)

§ 75031. Absence for Military Service

In computing the number of years a person has been a judge for the purposes of retirement under Sections 75025 or 75060, there shall be included any time as he or she was absent from his or her position as judge by reason of service with the armed forces of the United States during a war involving the United States as a belligerent or in any other national emergency, and for six months thereafter.

This section shall be retroactively applied to extend its benefits to all judges who served in the military service in time of war, including the period September 16, 1940, to December 7, 1941, and who return or have returned to their positions upon the termination of their military service or within six months thereafter. The provisions of this section apply to any person who resigned judicial office to enter military service in time of national emergency declared by the President prior to the authorization by law of military leave, if he or she returned to judicial office within 90 days after his or her separation from military service.

(Added by Stats. 1953, Ch. 206; amended by Stats. 2002, Ch. 664.)

§ 75031.5. Credit for Military Service

(a) A judge may elect, in writing filed with the Judges' Retirement System, to make contributions and receive service credit in this system for active service, performed prior to entering the system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit for that service may be granted on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge electing to receive credit for that service shall have at least one year of judicial service credited on the date of election or the date of retirement. If the service described in this subdivision

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terminated with a dishonorable discharge, service credit in the system may not be granted under this section.

(b) For purposes of this section, a judge means a judge as defined in Section 75002 or a judge who has retired pursuant to Section 75025 or has elected a deferred retirement subject to Section 75033.5.

(c) The retirement allowance of a retired judge who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(d) A judge who elects to receive credit for service pursuant to this section shall contribute to the Judges' Retirement Fund a sum equal to the actuarial present value of the increase in benefits due to the additional service, as determined by the chief actuary and approved by the board.

(e) An election by a judge to receive credit for service under this section shall be effective only if accompanied by a lump-sum payment or an authorization for payment, other than a lump-sum payment, in accordance with regulations adopted by the board.

(Added by Stats. 2004, Ch. 231.)

§ 75032. Allowance: Over Age 70

Every judge who has retired or who retires pursuant to Section 75025 before or after September 11, 1957, shall, during the remainder of his or her life, receive an allowance equal to one-half the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last appointed or elected by the people. The allowance shall be paid by the state at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

This amendment to this section enacted by the Legislature at its 1957 Regular Session does not give any retired judge a claim against the state for any increase in retirement allowance or other benefit for time prior to September 11, 1957.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1953, Ch. 1592; by Stats. 1957, Ch. 1980; and by Stats. 1986, Ch. 115.)

§ 75032.5. Deduction for Group Life Insurance

Retired judges, and beneficiaries, who are entitled to receive allowances under the provisions of this chapter, may authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the Controller for payment of group life insurance premiums for a group life insurance plan approved by the Director of Finance.

(Added by Stats. 1963, Ch. 1627.)

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§ 75033. Termination of Service Prior to Minimum Time

Notwithstanding any other provision of this chapter, if the service of a judge, who has been elected or appointed as such, is discontinued by any means other than death, resignation, recall, impeachment, or retirement pursuant to this chapter, he or she shall have the right to elect in writing filed with the Judges' Retirement System within 90 days thereafter, and without right of revocation, whether to allow his or her accumulated contributions to remain in the fund. A judge who after the effective date of the 1972 amendments to this section leaves his or her office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the California Constitution shall not be eligible for deferred retirement under this section. Failure to make the election shall be deemed an irrevocable election to withdraw his or her accumulated contributions. A judge who so elects to allow his or her accumulated contributions to remain in the fund shall, upon his or her application therefor to the Judges' Retirement System be retired, and after attaining age 65 receive a retirement allowance based upon the judicial service with which he or she is credited, in the same manner as other judges, except that his or her retirement allowance is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office that the retired judge last held prior to the discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of such discontinuance of his or her service, not to exceed eight years.

This section does not apply to any person who becomes a judge after January 1, 1974.

The amendments to this section during 1977 are also applicable to persons who elected to allow their accumulated contributions to remain in the fund prior to January 1, 1978.

(Added by Stats. 1953, Ch. 1592; amended by Stats. 1957, Ch. 315; by Stats. 1961, Ch. 1824; by Stats. 1972, Ch. 582; by Stats. 1973, Ch. 1102; by Stats. 1977, Ch. 311; by Stats. 1983, Ch. 395; by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 664.)

§ 75033.1. Removal from Office

Any judge who is removed from office by the Supreme Court shall not receive any of the benefits provided by Section 75033. The amount of his accumulated contributions shall be paid to him by the Judges' Retirement System.

This section shall be applicable only to a person who becomes a judge after the effective date of this section.

(Added by Stats. 1971, Ch. 1316; amended by Stats. 1986, Ch. 115.)

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§ 75033.2. Loss of Benefits for Commission of Felony

A judge who pleads guilty or no contest or is found guilty of a crime committed while holding judicial office which is punishable as a felony under California or federal law and which either involves moral turpitude under that law or was committed in the course and scope of performing the judge's duties, and the conviction becomes final shall not receive any benefits from the Judges' Retirement System, except that the amount of his or her accumulated contributions shall be paid to him or her by the Judges' Retirement System.

(Added by Stats. 1988, Ch. 993.)

§ 75033.5. Deferred Retirement

Notwithstanding any other provision of this chapter, any judge with at least five years of service, may retire, and upon his or her application therefor to the Judges' Retirement System after reaching the age which would have permitted him or her to retire for age and length of service under Section 75025 had he or she remained continuously in service as a judge up to that age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he or she is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his or her discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his or her retirement, not to exceed 20 years.

A judge of a justice court who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance based upon actual service rendered.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years. For the purposes of calculating the percentage of compensation payable, part-time service shall be the equivalent of full-time service.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of at least age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he or she living and receiving the benefits accorded by this section, commencing with the day following the date of the death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his or her death, if his or her death occurs prior to commencement of receipt of benefits.

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An election to retire under this section shall be made in writing and filed with the Judges' Retirement System, and shall be without right of revocation, and upon that filing the judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he or she has retired shall become vacant. The notice and election of retirement shall be sufficient if it states in substance that the judge elects to retire under the benefits of this section.

A judge who leaves his or her office prior to July 21, 1997, to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he or she receives by virtue of his or her service in that office. This paragraph shall not apply to any judge who left office on or after July 21, 1997.

(Added by Stats. 1973, Ch. 1102; amended by Stats. 1982, Ch. 1639, Ch. 1640; by Stats. 1984, Ch. 848; by Stats. 1986, Ch. 115; by Stats. 1988, Ch. 992; by Stats. 1989, Ch. 1417; by Stats. 1991, Ch. 90, effective 6/30/91, and Ch. 189, effective 7/27/91; and by Stats. 1998, Ch. 212.)

§ 75033.6. Deferred Retirement Subject to Nonmember Account

If a judge retires pursuant to Section 75033 or 75033.5 and there has been a community property benefit awarded to the judge's ex-spouse pursuant to Article 2.5 (commencing with Section 75050), the retirement allowance percentage payable to the judge shall be calculated at the rate specified in Section 75033 or 75033.5 less the percentage factor awarded to the ex-spouse. In no instance, regardless of the total number of years of credited service in the Judges' Retirement System, shall the retirement allowance percentage awarded the judge, when combined with the percentage awarded the ex-spouse, exceed the maximum amount allowable under the pertinent section under which the judge retired.

(Added by Stats. 1989, Ch. 1379.)

§ 75034. Repealed

(Repealed by Stats. 1986, Ch. 115.)

Note: The text of former Section 75034 follows:

§ 75034. Redeposit of Withdrawn Contributions

Notwithstanding any other provision of this chapter, if the service of a judge, who has been elected as such by vote of the people, has been discontinued by any means other than death, resignation, recall, impeachment, or retirement pursuant to this chapter, and who withdrew his accumulated contributions prior to September 9, 1953, he may within one year after October 1, 1961, pay into the Judges' Retirement System a sum equal to the amount withdrawn plus interest thereon at the rate of 6 percent per annum from the date of withdrawal to the date of payment. A judge who makes such payment as in this section provided shall, upon his application therefor to the State Controller after attaining

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age 60, or after making said payment, whichever event last occurs, be retired, and receive a retirement allowance based upon the judicial service with which he is credited, in the same manner as other judges, except that his retirement allowance is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to the discontinuance of his service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of such discontinuance of his service, not to exceed eight years.

No person, who was on January 1, 1961, drawing a retirement allowance from any public retirement system of this state, shall be eligible for retirement under this section.

(Added by Stats. 1957, Ch. 1869; amended by Stats. 1961, Ch. 1630; and by Stats. 1967, Ch. 853.)

§ 75034.1. Repealed

(Repealed by Stats. 2004, Ch. 231.)

Note: The text of former Section 75034.1 follows:

§ 75034.1. Surviving Spouse Benefits

The surviving spouse of a judge who qualifies, as prescribed in Section 75034, to receive the benefits accorded by that section and who dies during retirement shall receive, until death or remarriage, an allowance equal to 37 ½ percent of the retirement allowance that would be payable to the judge were he living and receiving the benefits accorded by Section 75034.

(Added by Stats. 1970, Ch. 1136.)

§ 75035. "Resignation"

"Resignation," as used in this article, does not include a resignation, express or implied, which is for the purpose of accepting an elective or appointive public office.

(Added by Stats. 1967, Ch. 853.)

§ 75036. Repealed

(Repealed by Stats. 1986, Ch. 115.)

ARTICLE 2.5. COMMUNITY PROPERTY

§ 75050. Nonmember: Rights

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(a) Upon the legal separation or dissolution of marriage of a member, 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 paragraph (3) of subdivision (a) of 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

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credit or accumulated contributions which 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 which are eligible for redeposit by the member under Section 75028.5.

(4) The right to purchase service credit which is eligible for purchase by the member under Sections 75029 to 75030.5.

(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. 1989, Ch. 1379; amended by Stats. 1992, Ch. 163 (Ch. 176 prevails); Ch. 176, effective 7/11/92; by Stats. 1993, Ch. 219; and by Stats. 1998, Ch. 485 and Ch. 932.)

§ 75051. "Nonmember"

"Nonmember," as used in this article, means the spouse or former spouse of a member, who as a result of petitioning the court for the division of community property, has been awarded a distinct and separate account reflecting specific credited service and accumulated contributions.

(Added by Stats. 1989, Ch. 1379.)

§ 75052. Nonmember: Refunds

(a) The nonmember who is awarded a separate account shall have the right to a refund of accumulated retirement contributions 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 is 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 in 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.

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(e) The nonmember may not cancel a refund once the refund 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 under Section 75028.5, or to purchase service credit under Section 75029 or Section 75030.5.

(g) If at the time the parties separate, the member does not have the necessary minimum credited service to retire, the nonmember shall receive a refund of the accumulated contributions placed in the nonmember's account. "Minimum credited service" means at least five years of service credit under the Judges' Retirement System.

(Added by Stats. 1989, Ch. 1379.)

§ 75052.5. Nonmember: Redeposit of Refund by Member

If the nonmember withdraws accumulated contributions in accordance with Section 75052, the member may redeposit those contributions pursuant to this part.

(Added by Stats. 1991, Ch. 892, effective 10/12/91.)

§ 75053. Nonmember: Redeposit

(a) The nonmember who is awarded a separate account may redeposit accumulated contributions previously refunded to the member in accordance with the determination of the court required by Section 75050.

(b) The nonmember may redeposit only those accumulated contributions which were previously refunded to the member and which the court has determined to be the community property interest of the nonmember in the accumulated retirement contributions.

(c) If the nonmember elects to redeposit, he or she shall repay the accumulated contributions pursuant to Section 75028.5.

(d) An election to redeposit shall be considered an election to repay all accumulated contributions previously refunded that the nonmember is entitled to redeposit.

(e) The right of the nonmember spouse to redeposit is subject to the regulations of the Board of Administration of the Public Employees' Retirement System which administers the Judges' Retirement System.

(f) The member has no right to redeposit the share of the nonmember in the previously refunded accumulated contributions whether or not the nonmember elects to redeposit. However, any right to redeposit previously refunded accumulated contributions not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(g) If the nonmember elected to redeposit upon retirement and has subsequently died, prior to completing the redeposit, the board shall file a claim against the

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estate of the decedent to recover benefit payments which exceeded those for which payment was made.

(Added by Stats. 1989, Ch. 1379.)

§ 75054. Nonmember: Purchase of Service Credit

(a) The nonmember shall have the right to purchase service credit pursuant to the determination of the court required by Section 75050.

(b) The nonmember may purchase only that service credit which the court, pursuant to Section 75050 has determined to be the community property interest 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 required.

(d) The nonmember shall have no right to purchase 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 purchase the community property interest of the nonmember in the service credit whether or not the nonmember elects to purchase the service credit. However, any service credit eligible for purchase that is not explicity awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(f) If the nonmember elected to purchase service credit upon retirement and has subsequently died, prior to completing the purchase, the board shall file a claim against the estate of the deceased to recover benefit payments which exceeded those for which payment was made.

(Added by Stats. 1989, Ch. 1379.)

§ 75055. Nonmember: Eligibility for Retirement

A nonmember shall be retired upon his or her written application to the board if all of the following conditions are met:

(a) The nonmember has attained the age of 50.

(b) On the date the parties separated, the member had at least five years' credited service, as defined by Section 75004.

(c) On the date of application of the nonmember, the member is eligible to retire and receive an allowance as provided in Section 75025, 75032, 75033, or 75033.5.

(Added by Stats. 1989, Ch. 1379; amended by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75056. Nonmember: Effective Retirement Date

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

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retirement, or the day following the date of the 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, or, if the nonmember has been incompetent to act on his or her own behalf continuously from the date of dissolution or legal separation, one year prior to the month in which an application by the guardian of his or her estate is so received. An application for retirement may only be filed by or for a nonmember who is living on the date the application is actually received by this system.

(Added by Stats. 1989, Ch. 1379.)

§ 75057. Nonmember: Allowance based on Salary Payable

For a nonmember, the retirement allowance shall be based on the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which the member judge was last appointed or elected, or from which the member is eligible to retire.

(Added by Stats. 1989, Ch. 1379; amended by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75058. Nonmember: Allowance based on Service and Benefit Factor

(a) A nonmember shall be entitled to a retirement allowance based on service accrued by the judge during their years of marriage and in accordance with the community property settlement. The retirement allowance percentage to the nonmember shall be calculated based upon the applicable percentages available to the judge at the time he or she becomes eligible to retire and to receive an allowance, multiplied by the number of years and fraction of years of service specified in the court order, not to exceed 20 years.

(b) If the nonmember chooses to retire before attaining age 60, his or her percent of salary shall be reduced by an additional 2 percent for each year by which the nonmember's age at the time of retirement is below age 60.

(Added by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75059. Former Spouse Allowance

(a) Upon the legal separation or dissolution of marriage of a retired member, the court shall include in a judgment or 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 paragraph (4) of subdivision (a) of Section 2610 of the Family Code, the retirement allowance payable to the member attributable to periods of service during the marriage shall be irrevocably divided into two separate and distinct payments in the

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names of the member and nonmember former spouse, respectively. Benefits under this section shall be based on the actuarial equivalent of the member's retirement allowance as of the effective date of the order dividing the benefit. The share of the actuarially reduced monthly allowance payable to the former spouse pursuant to that division shall be a lifetime benefit, and the former spouse shall have the right to designate a beneficiary for any unpaid allowance payable at the time of his or her death.

(c) Any retirement allowance not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(d) Any survivor benefits payable to any eligible surviving spouse of a retired member whose allowance was reduced under this section shall be based solely on the reduced allowance.

(Added by Stats. 2000, Ch. 988.)

§ 75059.1. Former Spouse Payment

(a) A former spouse of a judge retired or deceased as of January 1, 2001, shall be eligible for the benefits provided by this section if the community property interest in the system was divided by court order pursuant to paragraph (4) of subdivision (a) of Section 2610 of the Family Code, the former spouse retained an interest in the system, and the parties did not divide the member's account pursuant to Section 75050. The monthly allowance payable pursuant to that division to the former spouse shall be a lifetime benefit and the former spouse shall have the right to designate a beneficiary for any unpaid allowance payable at the time of his or her death.

(b) The section shall apply retroactively to establish eligibility for a former spouse to the benefits provided by this section, but any payment made to the former spouse shall be prospective and shall commence no earlier than (1) the first day of the month in which the application was received by the system in those cases where the member is deceased, or (2) the first day of the month in which a valid court order is received in cases where the retired judge is still living.

(c) The board has no duty to locate or notify the members or former spouses who may be eligible to apply for the benefits under this section.

(d) The benefits provided by this section shall be applicable to persons otherwise eligible who notify the system in writing prior to January 1, 2002.

(Added by Stats. 2000, Ch. 988; amended by Stats. 2001, Ch. 159.)

ARTICLE 3. DISABILITY RETIREMENT

§ 75060. Disability Eligibility Requirements

(a) Any judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability that is or is likely to become permanent may, with his or her consent and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Performance, be retired from office. The

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consent of the judge shall be made on a written application to the Commission on Judicial Performance. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b). A certificate evidencing the approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing his or her consent that has been received in the office of the commission and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his or her death if the designated officers, prior to the filling of the vacancy created by the judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he or she has personally examined the judge applying for retirement under this section and that he or she is of the opinion that the judge is unable to discharge efficiently the duties of the judge's office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1959, Ch. 364; by Stats. 1961, Ch. 681; by Stats. 1st Ex Sess 1962, Ch. 61, effective 5/1/62; by Stats. 1967, Ch. 17 and Ch. 1049; by Stats. 1982, Ch. 454 and Ch. 1639; and by Stats. 1987, Ch. 56.)

§ 75060.1. Disability Retirement Allowance

Notwithstanding any provision of law to the contrary, every judge retired for disability before or after the effective date of this section shall receive a retirement allowance in an amount that he or she would have received had he or she retired after the effective date of this section. This section does not give any retired judge a claim against the state for any increase in retirement allowance or other benefit for time prior to the effective date of this section.

(Added by Stats. 1957, Ch. 1980; amended by Stats. 2002, Ch. 664.)

§ 75060.2. Repealed

(Repealed by Stats. 1986, Ch. 115 § 12.)

§ 75060.3. Repealed

(Repealed by Stats. 2001, Ch. 745, effective 10/12/01.)

Note: The text of former Section 75060.3 follows:

§ 75060.3. Commission on Judicial Performance—Annual Report

(a) The Commission on Judicial Performance shall annually submit to the Governor and the Legislature a report on the incidence of ordered, requested, and granted disability retirements in the preceding fiscal year.

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(b) The report shall include the following:

(1) The number of years the affected judges have served as a judge on the date of receipt of the application for disability retirement and on the effective date of the disability retirement.

(2) The age of the judge on the date of receipt of the application for disability retirement and on the effective date of his or her disability retirement.

(3) The physical or mental impairment which was the basis for the application by the judge for disability retirement, for the granted disability retirement, or for the ordered disability retirement, using the following categories to describe these impairments:

(A) Orthopedic.

(B) Psychological.

(C) Cardio-vascular.

(D) Internal.

(E) Neurological.

(F) Other.

(4) Any other information deemed relevant by the Commission on Judicial Performance.

(Added by Stats. 1989, Ch. 427.)

§ 75060.4. Repealed

(Repealed by Stats. 1961, Ch. 681.)

§ 75060.5. Effect of Section 75061 Repeal

Every judge retired under Section 75060, who on the ninetieth day after the final adjournment of the 1957 Regular Session of the Legislature is receiving a retirement allowance computed pursuant to Section 75061, shall, notwithstanding the repeal of Section 75061, continue to receive such allowance pursuant to the terms of Section 75061 as if such section were not repealed and shall not receive the retirement allowance provided for by Section 75060.6.

(Added by Stats. 1957, Ch. 2065.)

§ 75060.6. Recovery from Disability

The Commission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not

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exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

(Added by Stats. 1957, Ch. 2065; amended by Stats. 1961, Ch. 681 and Ch. 2075; by Stats. 1982, Ch. 454; by Stats. 1983, Ch. 395; and by Stats. 1988, Ch. 992 and Ch. 993.)

§ 75061. Service Requirement for Disability

(a) Any person who becomes a judge during the period of January 1, 1980, through December 31, 1988, shall not be eligible to be retired for disability unless the judge is credited with at least two years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

(b) Any person who becomes a judge on or after January 1, 1989, shall not be eligible to be retired for disability unless the judge is credited with at least four years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

(Added by Stats. 1979, Ch. 709; amended by Stats. 1988, Ch. 993; and by Stats. 1989, Ch. 986.)

§ 75062. Disability Application: Effect of Commission of a Crime

A judge who applies for disability retirement and against whom there is pending a criminal charge of the commission of, or who has been convicted of, a felony under California or federal law (allegedly committed or committed while holding judicial office), prior to the approval of the application:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1988, Ch. 993.)

§ 75063. Disability Application: Effect of Disciplinary Proceeding

A judge against whom there is pending a disciplinary proceeding which could lead to his or her removal from office or who has been removed from office for

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judicial misconduct, prior to the approval of his or her application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1988, Ch. 993.)

§ 75064. Disability Application: Effect of Election Defeat

A member who is defeated at an election and who either had submitted, prior to the date of the election, an application for disability retirement or submits, on or after the date of the election, an application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1988, Ch. 993.)

ARTICLE 3.5. PAYMENT OF BENEFITS

§ 75070. Optional Settlement Election

In lieu of the retirement allowance for his or her life alone, a judge may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75071.

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

(Added by Stats. 1953, Ch. 1592; amended by Stats. 1986, Ch. 115; and by Stats. 2014, Ch. 237.)

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§ 75071. Optional Settlements

(a) Optional settlement one consists of the right to have a retirement allowance paid to the judge for life and if he or she dies before receiving the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her designated beneficiary or, if no beneficiary designation is in effect on the date of death, to his or her estate.

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

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

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

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

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

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

(d) Optional settlement four consists of other benefits that are the actuarial equivalent of his or her retirement allowance, that he or she may select subject to the approval of the Judges' Retirement System.

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

(Added by Stats. 1953, Ch. 1592; amended by Stats. 1986, Ch. 115; by Stats. 1999, Ch. 671; by Stats. 2001, Ch. 433; by Stats. 2002, Ch. 661; and by Stats. 2005, Ch. 328.)

§ 75072. Increases in Optional Allowances

If, during the life of a judge who has elected to receive an optional settlement in lieu of a retirement allowance for his or her life alone, or during the life of a beneficiary under an optional settlement upon whose life contingency the optional settlement elected depends, the compensation payable to the judge holding the judicial office to which the retired judge was last appointed or elected by the people prior to his or her retirement is increased, the amounts payable to the retired judge or to his or her beneficiary, or both, shall be recomputed and increased to be the actuarial equivalent of the increased amount of the retirement allowance to which the retired judge would be entitled if he or she had not elected an optional settlement. However, this section does not give any retired judge or his or her beneficiary any claim against the state for any increase in retirement allowance or other benefit for time prior to the increase in the compensation of the incumbent judge.

(Added by Stats. 1953, Ch. 1592; amended by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 661.)

§ 75073. Waive Provision for Allowance

A judge who elects to receive optional settlement two or three may concurrently and irrevocably elect to waive the provision for an increase to his or her allowance, as specified in subdivisions (b) and (c) of Section 75071, and shall, instead, have his or her allowance based upon the waiver of this benefit.

(Added by Stats. 2001, Ch. 433.)

§ 75074. Beneficiary Designation

(a) Except as provided in subdivision (b), a judge may, at any time, including, but not limited to, at any time after reaching retirement age, designate a beneficiary to receive the benefits as may be payable to his or her beneficiary under this article, by a writing filed with the board.

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(b) No designation may be made in derogation of the community property share of any nonmember spouse when any benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 2610 of the Family Code.

(c) The designation, subject to conditions imposed by board rule, may be by class, in which case the members of the class at the time of the judge's death shall be entitled as beneficiaries. The designation shall also be subject to the board's conclusive determination, upon evidence satisfactory to it, of the existence, identity, or other facts relating to entitlement of any person designated as beneficiary, and payment made by this system in reliance on any determination made in good faith, notwithstanding that it may not have discovered a beneficiary otherwise entitled to share in the benefit, shall constitute a complete discharge and release of this system for further liability for the benefit.

(Added by Stats. 2002, Ch. 661.)

§ 75074.5. Beneficiary Designation—January 1, 2003 through January 1, 2007

(a) Notwithstanding any other provision of law, the designated beneficiary or beneficiaries of any judge who designated a beneficiary to receive an optional settlement benefit by a writing filed with the board, in compliance with Section 75074, on or after January 1, 2003, and before January 1, 2007, and who dies while in office, shall be entitled to receive the optional settlement benefit the judge elected pursuant to Section 75071, subject to the provisions of subdivisions (b) and (c).

(b) The benefit payable under this section shall be actuarially adjusted to an amount equal in value to the amount the judge would have received if the judge retired on the date of death. If the judge was not eligible to retire on the date of death, the allowance shall not be payable until the date upon which the judge would have been eligible to begin receiving a service retirement allowance under Section 75025.

(c) If the designated beneficiary of a judge who dies while in office receives an allowance pursuant to this section, no person shall have any other claim to benefits otherwise available to the judge's designated or statutory beneficiaries with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law. However, if the judge's surviving spouse is eligible for an allowance under Section 75104.4, the allowance provided for by Section 75104.4 shall be paid and the allowance payable under this section shall be actuarially adjusted to reflect the benefit provided by Section 75104.4. All benefits paid under this section are subject to the provisions of subdivision (b) of Section 75074.

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

(Added by Stats. 2008, Ch. 1.)

ARTICLE 3.6. BENEFITS PAYABLE

§ 75075. Election of Benefits

Any judge hereafter retiring pursuant to Section 75025 or 75060 may elect to receive the benefits accorded by this article if he or she retires for service or disability.

Every judge who qualifies under this section shall be deemed to elect to receive the benefits accorded by this article, unless he or she makes an election to the contrary by filing written notice thereof with the Judges' Retirement System at or prior to retirement.

Any judge whose service would qualify him or her for any benefits under this article if the total of the service included an additional 60 days, shall be deemed to have credited to him or her, sufficient service to qualify for the benefit.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1961, Ch. 1773; by Stats. 1963, Ch. 1953; by Stats. 1965, Ch. 1251; by Stats. 1968, Ch. 1377; by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1988, Ch. 992; by Stats. 1990, Ch. 29, effective 3/19/90; by Stats. 1991, Ch. 90, effective 6/30/91; and by Stats. 1998, Ch. 212.)

§ 75075.01. Limitations Under Federal Law

(a) Notwithstanding any other provision of this part, the benefits payable to any person who for the first time becomes a member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code.

(b) Notwithstanding any other law, the benefits payable to any person who became a member prior to January 1, 1990, shall be subject to the greater of the following limitations as provided in Section 415(b)(10) of the Internal Revenue Code:

(1) The limitations set forth in Section 415 of the Internal Revenue Code.

(2) The accrued benefit of a member under this system (determined without regard to any amendment to the system made after October 14, 1987).

(Added by Stats. 1989, Ch. 1305, effective 10/1/89.)

§ 75075.02. Annual Compensation

The benefits payable to any person who first becomes a member of this system on or after July 1, 1996, shall not exceed the limitations in Section 401(a) of Title 26 of the United States Code upon public retirement systems, as that section may

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be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for that calendar year. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

(Added by Stats. 1995, Ch. 829.)

§ 75075.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75076. Maximum Allowances

(a) A judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article shall receive a retirement allowance equal to 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed; except that if upon retirement a judge has received credit for 20 or more years of service rendered prior to the expiration of the time within which the judge is eligible to elect to receive the benefits accorded by this article and for which he or she has contributed to the Judges' Retirement Fund his or her retirement allowance shall equal 75 percent of that salary.

(b) Any judge retiring after July 7, 1960, who has or shall become entitled to credit for service as a judge of a court of record prior to the inclusion of the judges of those courts, or of all of those courts, under the Judges' Retirement Law, or as a "judge of an excluded court" as defined by Section 75029, or as a "constitutional officer" or "public legal officer" as defined by Section 75030.5, without having contributed therefor to the Judges' Retirement Fund, may at any time prior to retirement contribute for all or any part of that service by paying into the fund a sum of money computed by applying to the rate of salary which he or she actually received during his or her first year of service as a judge the rate of deduction first applicable to his or her salary as a judge after the inclusion of the judges of his or her court under the Judges' Retirement Law, multiplied by the period of service for which contributions are elected to be made, plus interest at 3 percent a year to the date of his or her payment upon the amounts of the deductions and from the respective dates they would have been made if he or she had been the holder of a judicial office subject to the provisions of the Judges' Retirement Law at the time of the rendition of the services for which he or she has received or hereafter receives that credit.

The amount of any contribution authorized by this subdivision and interest thereon shall be determined by the Judges' Retirement System in accordance with this subdivision.

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(c) If the judge retires pursuant to Section 75025, the allowance is payable during the remainder of his or her life; if pursuant to Section 75060, it is payable as provided in Section 75060.6.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1960 1st Ex Sess, Ch. 25; by Stats. 1986, Ch. 115; by Stats. 1988, Ch. 992; by Stats. 1991, Ch. 90, effective 6/30/91; and by Stats. 1998, Ch. 212.)

§ 75076.1. Retirement under Section 75025 or Section 75060 Subject to Nonmember Account

If a community property benefit has been awarded to a judge's ex-spouse pursuant to Article 2.5 (commencing with Section 75050), the percent of the salary payable to the judge who retires under Section 75025 or 75060 shall be computed at the rate of 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed, less the percentage awarded to the ex-spouse, or 75 percent of the salary payable less the percentage of the amount awarded to the ex-spouse if the judge has served at least 20 years of service at the time of his or her retirement. In no instance, regardless of the total number of years of judicial service, shall the retirement allowance percentage awarded the judge when combined with the percentage awarded the ex-spouse exceed the maximum amount allowable under the pertinent section under which the judge retired.

(Added by Stats. 1989, Ch. 1379.)

§ 75076.2. Computation of Part-Time Service

A judge who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance. The reduction shall be based upon the relationship between the actual service rendered by the judge, including service rendered by reason of sitting on assignment, and a full-time judge's service during the period from January 1, 1990, until the date of retirement. Computations under this section and subdivision (a) of Section 75076 shall consider the salary payable to the judge of a municipal or justice court to be equal to 91.3225 percent of the salary of a superior court judge. For purposes of qualifying for retirement, part-time service shall be the equivalent of full-time service.

(Added by Stats. 1989, Ch. 1417; amended by Stats. 2002, Ch. 784.)

§ 75076.5. Reduction of Allowance

Notwithstanding any other provision of law, in no event shall an allowance payable pursuant to this chapter to a retired member on the effective date of a reduction in judges' salaries ever be reduced to an amount less than the amount produced by multiplying the amount of the highest salary the retired member was paid while serving as a judge by the following percentages:

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(a) For an allowance computed pursuant to Section 75032, 50 percent.

(b) For an allowance computed pursuant to the first clause of subdivision (a) of Section 75076, 65 percent.

(c) For an allowance computed pursuant to the second clause of subdivision (a) of Section 75076, 75 percent.

(d) For an allowance computed pursuant to Section 75033 or 75033.5, the percentage used to calculate the original retirement allowance pursuant to Section 75033 or 75033.5.

(Added by Stats. 1987, Ch. 1023; amended by Stats. 1988, Ch. 992.)

§ 75077. Surviving Spouse Allowance

The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would be payable to the judge if he or she were living and receiving the benefits accorded by this article.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1998, Ch. 212; by Stats. 2002, Ch. 664; and by Stats. 2004, Ch. 231.)

§ 75077.5. Effect of Marriage Date on Survivor Allowance

For a judge who dies after retirement, the spouse of a judge at death may receive benefits payable to a surviving spouse under this chapter only if the spouse was married to the judge as of January 1, 1980, or continuously for a period beginning one year prior to the date of retirement and ending with the judge's death.

It is the intent of the Legislature that this section apply to all judges first appointed or elected to office on and after January 1, 1980, or to any judge who marries on or after January 1, 1980.

(Added by Stats. 1979, Ch. 709.)

Note: Fildew, et al. v. Board of Adminstration of PERS, Los Angeles Superior Court Case No. C462872 (judgment entered January 24, 1984), it was held that this section may not constitutionally be applied to the surviving spouse of any sitting judge or retired judge who took office before January 1, 1980, regardless of when the marriage occurred or occurs.

§ 75078. Manner of Payment

The allowance to the judge and to his surviving spouse under this article shall be paid by the State at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

(Added by Stats. 1959, Ch. 1363.)

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§ 75079. Finality of Election: Actuarially Reduced Allowance

(a) When a judge elects and becomes entitled to receive the benefits accorded by this article, he or she does not have the right to select an optional settlement under the provisions of Article 3.5 (commencing with Section 75070) of this chapter.

(b) When a judge becomes entitled on and after January 1, 1987, to receive the benefits accorded by this article, the judge may instead elect an actuarially reduced retirement allowance payable for life and if the judge dies before he or she receives the amount of his or her accumulated contributions at retirement, the remaining unpaid amount of his or her accumulated contributions shall be paid to his or her designated beneficiary, if he or she has so designated, and if none, to his or her estate.

The election shall be made in writing and filed with the Judges' Retirement System within 30 calendar days after the making of the first payment on account of any retirement allowance.

(c) The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by Section 75076 but who elected to receive the actuarially reduced retirement allowance as provided in subdivision (b) and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would have been payable to the judge if he or she were living and had elected to receive the benefits accorded by Section 75076.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1986, Ch. 1417; by Stats. 2004, Ch. 231; and by Stats. 2014, Ch. 237.)

§ 75079.5. Retirement under Section 75025: Optional Settlement Election

Notwithstanding any other provision of this part, a judge who retires on or after January 1, 2002, and who elects to retire pursuant to Section 75025 shall have the right to elect an optional settlement pursuant to Article 3.5 (commencing with Section 75070).

(Added by Stats. 2001, Ch. 433.)

ARTICLE 4. EMPLOYMENT OF RETIRED JUDGES

§ 75080. Termination or Reduction of Disability Allowance

(a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation, the retirement allowance otherwise payable to him or her shall continue and shall not be reduced, except as provided in this section.

(b) If a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement under Section 75060, the

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retirement allowance otherwise payable to him or her shall, during the time he or she is entitled to receive that salary or other compensation, be reduced by the amount of that salary or compensation.

(c) Except as provided in subdivision (d), if a judge who is retired for disability engages in the practice of law or any other gainful occupation in which the compensation earned in any month when combined with the judge's allowance exceeds 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earnings in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(d) If a judge who is retired for disability engages in the practice of law or other gainful occupation that requires the discharge of duties substantially similar to those duties that he or she was found, pursuant to Section 75060, to be unable to discharge efficiently because of his or her mental or physical disability, the retirement allowance otherwise payable to him or her shall cease permanently.

(e) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

(f) When a person described in subdivision (c) reaches the age at which he or she would have been eligible for retirement, pursuant to Section 75025, had he or she not incurred the disability, his or her retirement allowance shall be made equal to the amount it would be if not reduced under that subdivision, and shall not again be modified for any cause.

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

(h) The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1981, Ch. 585; by Stats. 1982, Ch. 1639 and Ch. 1640; by Stats. 1986, Ch. 1144; and by Stats. 1999, Ch. 671.)

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§ 75080.5. Reinstatement From Retirement

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

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

(Added by Stats. 2009, Ch. 130.)

§ 75081. Repealed

(Repealed by Stats. 1961, Ch. 681.)

§ 75082. Repealed

(Repealed by Stats. 1961, Ch. 681.)

§ 75083. Appointment as Master or Referee

Any judge retired pursuant to this chapter who is appointed by the Supreme Court or any court of appeal, or division thereof, to act as a master or referee in any proceeding pending before those courts or before the Commission on Judicial Performance, shall be paid while so acting, in addition to his or her retirement allowance (taken without reduction on account of any election pursuant to Article 3.5 (commencing with Section 75070)) the difference, if any, between the retirement allowance and the compensation of a judge of the court from which he or she retired.

When appointed to act as referee in a county other than that in which he or she resides, he or she shall also be allowed his or her necessary expenses for travel, board, and lodging incurred in the discharge of that appointment.

The extra compensation and expenses, if any, shall be chargeable to the state.

(Added by Stats. 1959, Ch. 1664; amended by Stats. 1967, Ch. 17; by Stats. 1974, Ch. 149, effective 4/4/74; by Stats. 1982, Ch. 454; and by Stats. 2002, Ch. 664.)

ARTICLE 4.5. EXTENDED SERVICE INCENTIVE PROGRAM

§ 75085. Purpose

The Extended Service Incentive Program is hereby created to provide an incentive to judges who are eligible to receive the maximum retirement benefit to remain in public service. The program is intended to address the growing problem of judges retiring when they are first eligible to do so. The people of California are continuing to lose vital judicial resources and experience when long-serving

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judges leave public service. The Extended Service Incentive Program shall provide certain judges who retire with more than 23 years of creditable service with a lump sum payment in addition to their normal monthly retirement allowance. It is intended that the program shall operate at no cost to the state, due to the anticipated delayed retirement of the participating judges.
(Added by Stats. 2000, Ch. 961.)

§ 75085.1. Administration

The design and administration of the Extended Service Incentive Program shall conform to the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.
(Added by Stats. 2000, Ch. 961.)

§ 75085.2. Invalid Provision

If any provision of this article or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.
(Added by Stats. 2000, Ch. 961.)

§ 75085.3. Implementation

The board shall implement the Extended Service Incentive Program pursuant to the provisions of this article no later than July 1, 2001, unless the board determines, by resolution, that the implementation tasks cannot be completed until a later date, in which case the board shall implement the program pursuant to this article no later than January 1, 2002.
(Added by Stats. 2000, Ch. 961.)

§ 75085.4. Regulations

The board may adopt regulations to implement the program.
(Added by Stats. 2000, Ch. 961.)

§ 75085.5. "Program"

"Program" means the Extended Service Incentive Program.
(Added by Stats. 2000, Ch. 961.)

§ 75085.6. "Extended Service Calculation Date"

"Extended service calculation date" means the later of (a) January 1, 2001, or (b) the date the judge first becomes eligible to participate in the program pursuant to Section 75086.

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(Added by Stats. 2000, Ch. 961.)

§ 75085.7. "Extended Service Period"

"Extended service period" means a period of time commencing on the extended service calculation date and ending (a) on the date of the judge's retirement or his or her earlier termination of service, as provided in subdivision (b) of Section 75086.1, or (b) 120 months after the extended service calculation date, whichever is earlier. Nothing in this article shall be deemed to prohibit a judge from continuing to perform creditable service beyond the extended service period.

(Added by Stats. 2000, Ch. 961.)

§ 75085.8. "Program Payment"

"Program payment" means the amount to be paid to the judge as a result of his or her participation in the program, as calculated in Section 75087.

(Added by Stats. 2000, Ch. 961.)

§ 75086. Eligibility

A judge shall be eligible to participate in the program if the judge has performed at least 20 years of creditable service and is at least 60 years of age.

(Added by Stats. 2000, Ch. 961.)

§ 75086.1. Creditable Service

(a) A judge described in Section 75086 shall be entitled to receive a program payment at the time of his or her termination of employment and retirement if the judge continued to perform creditable service for at least 36 months after the extended service calculation date.

(b) Notwithstanding subdivision (a), if a judge described in Section 75086 ceases to perform creditable service within 36 months after the extended service calculation date due to the judge's death or disability, or because the judge was unsuccessful in his or her efforts to be reelected or retained in office, the judge, or the judge's beneficiary, shall be entitled to receive a program payment. No program payment shall be distributed pursuant to this subdivision prior to the implementation of the program as provided in Section 75085.3.

(Added by Stats. 2000, Ch. 961.)

§ 75086.2. Employee Contribution

The judge's retirement contribution shall continue during the extended service period.

(Added by Stats. 2000, Ch. 961.)

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§ 75087. Calculation of Payment

The program payment shall be calculated by the system as an aggregate amount equal to a percentage of the judge's monthly salary for each month of the extended service period, taking into account any salary increases occurring during the period, plus monthly interest thereon at a rate indexed to 30 year United States Treasury Bonds.For the first to the 60th month, inclusive, of the extended service period, the calculation amount shall be 20 percent of the judge's monthly salary. For the 61st to the 120th month, inclusive, of the extended service period, the calculation amount shall be 8 percent of the judge's monthly salary.

(Added by Stats. 2000, Ch. 961.)

§ 75088. Termination of Employment

Upon the termination of employment and retirement of a judge who is entitled to a program payment, as described in subdivision (a) of Section 75086.1, the judge shall receive the program payment, calculated pursuant to Section 75087, in the form of a single, lump-sum payment, in addition to any other retirement benefit to which the judge is entitled pursuant to this chapter.

(Added by Stats. 2000, Ch. 961.)

§ 75088.3. Program Payment Distribution

The required beginning date of distributions that reflect the entire interest of the judge shall be as follows:

(a) In the case of a lump-sum distribution to the judge, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the judge attains the age of 70 and one-half years or the calendar year in which the judge terminates employment.

(b) In the case of a program payment payable on account of the judge's death, the distribution shall be made no later than December 31 of the calendar year in which the fifth anniversary of the judge's date of death occurs unless the beneficiary is the judge's spouse in which case distributions shall commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the judge dies.

(2) December 31 of the calendar year in which the judge would have attained the age of 70 and one-half years.

(Added by Stats. 2000, Ch. 961.)

§ 75088.4. Beneficiary Designation

A judge described in Section 75086 may, at any time, designate a beneficiary to receive the benefits that may be payable to his or her beneficiary or estate under this article by a writing filed with the board, except that no designation may be made in

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derogation of the community property share of any nonmember spouse when any benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 2610 of the Family Code. If a judge has not filed a beneficiary designation with the board, all benefits payable pursuant to this article shall be paid to the survivors of the judge in the order set forth in Section 21493.

(Added by Stats. 2000, Ch. 961.)

§ 75089. Vested Rights

Notwithstanding any other provision of law, a judge shall have no vested rights under this article unless and until the judge satisfies the eligibility requirements specified in Section 75086. Nothing in this article shall be construed to limit the right of the Legislature to subsequently modify or repeal any provision of this article as it relates, or may relate, to all other judges subject to this chapter.

(Added by Stats. 2000, Ch. 961.)

§ 75089.1. Report to the Legislature

The Judicial Council shall, on or before January 1, 2006, prepare a report to the Legislature that analyzes the effects of the Extended Service Incentive Program, including the effect, if any, of the program on the length of service of judges. The report shall include recommendations on ways to encourage long service by judges in the Judges' Retirement System II, including whether and how to establish an Extended Service Incentive Program for members of the Judges' Retirement System II. The recommendations should also ensure that the Judges' Retirement System and the Judges' Retirement System II provide appropriate incentives to attract and retain judges of the highest quality from all areas of legal practice.

In addition, the board shall, on or before January 1, 2006, conduct an actuarial valuation to determine the costs of the program and report the results thereof to the Legislature.

(Added by Stats. 2000, Ch. 961.)

ARTICLE 5. SURVIVOR BENEFITS

§ 75090. Optional Surviving Spouse Benefits: Election

The benefits of this article are payable only to the surviving spouse of a judge who elects to come within this article. Any person who becomes a judge after August 22, 1964, may elect to come within this article within six months after becoming a judge or three months after notice is mailed to him or her by the Judges' Retirement System, except as otherwise provided in this section. Election

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to come within this article is made by filing written notice thereof with the Judges' Retirement System. Any election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after that revocation.

Any judge who was married prior to January 1, 1990, and who had not previously elected to come within this article, shall exercise his or her election prior to April 1, 1990. A judge so electing shall pay all the contributions he or she would have made pursuant to Section 75092 had he or she been covered by this article as soon as originally eligible pursuant to this section.

(Added by Stats. 1961, Ch. 2136; amended by Stats. 1964 1st Ex Sess, Ch. 151; by Stats. 1984, Ch. 848 and Ch. 1320, effective 9/24/84; and by Stats. 1989, Ch. 1379.)

§ 75090.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75090.2. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75090.3. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75091. Optional Surviving Spouse Benefits: Amount and Duration

(a) If a judge who is credited with at least 10 years of service but less than 20 years of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly allowance, payable from the Judges' Retirement Fund, equal to 1.625 percent of the monthly salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which the deceased judge was last elected or appointed multiplied by the number of years of service of the deceased judge.

(b) If a judge who is credited with 20 years or more of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly allowance, payable from the Judges' Retirement Fund, equal to 37½ percent of the monthly salary payable, at the time the payment of the allowance falls due, to the judge holding the judicial office to which the deceased judge was last elected or appointed.

(c) For the purposes of this section any fraction of a year equals one year. The allowance is payable commencing upon the death of the judge and continuing until the death of the surviving spouse.

(d) If the surviving spouse is eligible for an allowance under Section 75104.4, the allowance provided for by Section 75104.4 shall be paid and no allowance

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shall be made under this article. If an allowance is paid under this section, no payment shall be made pursuant to Section 75104 or 75104.5.

(Added by Stats. 1961, Ch. 2136; amended by Stats. 2004, Ch. 231.)

§ 75092. Optional Surviving Spouse Benefits: $2 Contribution

Any judge electing to come within this article shall contribute two dollars ($2) a month to the Judges' Retirement Fund. Such contribution shall be deducted from the monthly salary of each judge so electing by the State Controller and each county auditor in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

(Added by Stats. 1961, Ch. 2136.)

§ 75093. Surviving Spouse Benefits: 25 Percent Allowance

(a) Notwithstanding any other provisions of this article to the contrary, the surviving spouse of any judge who died in office on or after January 1, 1987, shall receive a monthly allowance, equal to 25 percent of the monthly salary payable at the time payment of the allowance falls due, to the judge last holding the judicial office to which the deceased judge was last elected or appointed.

(b) A surviving spouse who receives an allowance pursuant to this section shall have no other claim with respect to the Judges' Retirement Fund or with respect to any other provisions of the Judges' Retirement Law except that a surviving spouse who receives an allowance pursuant to this section on account of a death in office on or after January 1, 1987, and who was eligible to elect the allowance payable pursuant to Section 75091, may elect, within a 24-month period after the date of the death of the judge, to become subject to Section 75091 in lieu of the benefit payable pursuant to this section, and that any surviving spouse who was, prior to January 1, 1987, eligible to elect the monthly allowance provided by Section 75091 but, instead, had elected at the time of the judge's death, the monthly allowance payable pursuant to this section, may elect, within a 24-month period after the date of the death of the judge, to receive the monthly allowance provided by Section 75091 in lieu of the benefit payable pursuant to this section. An election revoking the benefit payable pursuant to this section and electing to receive the monthly allowance payable pursuant to Section 75091 shall be filed with the Judges' Retirement System and the effective date of payment provided by Section 75091 shall be the first of the month following the date on which that election was filed.

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

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(d) If the surviving spouse has received a benefit under Division 4 (commencing with Section 3201) of the Labor Code, on account of the death of a judge, the amount of that benefit shall be deducted from the allowance payable under this section.

(e) The allowance provided by this section shall be payable commencing with the day following the date of the judge's death.

(f) This section does not apply to the death of any retired judge while serving on assignment in any court.

(Added by Stats. 1968, Ch. 1466; amended by Stats. 1986, Ch. 115 and Ch. 636, effective 8/29/86; and by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 75093.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75094. Surviving Spouse Benefits: Judge Death While in Office

(a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge shall receive an allowance that is equal to the amount that the judge would have received had the judge been retired from service on the date of his or her death and had elected optional settlement 2 specified in subdivision (b) of Section 75071, if all of the following apply to the judge:

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

(2) The judge had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service.

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

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

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

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

(Added by Stats. 1999, Ch. 671; amended by Stats. 2003, Ch. 10, effective 5/14/03; repealed by Stats. 2004, Ch. 231; and added by Stats. 2008, Ch. 1.)

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ARTICLE 5.1. SURVIVING CHILDREN BENEFITS

§ 75095. Surviving Children: Election and Contributions

The benefits of this article are payable only to the surviving children of a judge who elects to come within this article. Any person who becomes a judge after November 23, 1970, may elect to come within this article within six months after becoming a judge, or within six months of accepting or acquiring a legal duty to support one or more eligible children, whether his or her own or those of another person.

Any judge who accepted or acquired a legal duty to support one or more eligible children prior to January 1, 1988, and who had not previously elected to come within this article, shall exercise his or her election prior to July 1, 1988. A judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097 had he or she been covered by this article as soon as originally eligible pursuant to this section.

Any person who is a judge on November 23, 1970, may elect to come within the provisions of this article on or before July 1, 1971.

(Added by Stats. 1970, Ch. 1100; amended by Stats. 1987, Ch. 1380.)

§ 75095.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75095.5. Repealed

(Repealed by Stats. 2002, Ch. 784; and amended by Stats. 2002, Ch. 664.)

Note: The text of former Section 75095.5 follows:

§ 75095.5. Surviving Children: Election by Judge Who Died on September 18, 1983

Any election of any judge who became a municipal court judge on May 23, 1980, and died on September 18, 1983, to come within the provisions of this article, which was filed with the Secretary of State on September 22, 1983, shall become effective on the date filed.

The surviving spouse of the person so electing who was previously eligible to come within this article and did not do so, shall pay all of the contributions he would have made pursuant to Section 75097 had he been covered by this article as soon as eligible therefor.

(Added by Stats. 1983, Ch. 1258; amended by Stats. 1984, Ch. 848.)

§ 75096. Surviving Children: Payment to Guardian—Age Limitations

The monthly allowance payable pursuant to Section 75091 shall be paid to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under the age of 22 who are full-time students, and to the child or guardian of a surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability

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ceases, of a judge who dies prior to retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death. The amount paid shall be divided equally among the children.

"Children," for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her death.

"Disabled" or "disability" means, with respect to qualification for an allowance to a Surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within this article shall be made by filing a written notice thereof with the Judges' Retirement System. Any election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after revocation.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the judge last held prior to discontinuance of service as a judge.

The amendments to this section made during the 1991-92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993.

(Added by Stats. 1970, Ch. 1100; amended by Stats. 1983, Ch. 395; and by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75096.1. Surviving Children: Guardian

Notwithstanding any other provisions of this article to the contrary, the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, of a judge who dies prior to retirement without a surviving spouse, or in the event that the surviving spouse of such judge dies after his death while receiving an allowance payable pursuant to Section 75093, may elect to receive in lieu of any other surviving children's benefits an allowance equivalent to that payable pursuant to Section 75093, including, in the event of the death of the judge without a surviving spouse, the deduction therein provided. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include the judge's election that his children should enjoy the election granted by this section, and contributions shall be made by the judge so electing as provided in Section 75097.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395.)

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§ 75096.2. Surviving Children: Allowance in Lieu of Other Benefits When Judge Dies Before Retirement

A monthly allowance equivalent to the allowance payable pursuant to Section 75104.4 shall be paid, in lieu of the allowance provided in Section 75096, or any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age of 22 who are full-time students, of a judge who, although eligible for retirement, dies prior to retirement under this chapter without a surviving spouse, or in the event that the surviving spouse dies after his death while receiving an allowance payable pursuant to Section 75104.4. The amount paid shall be divided equally among the children.

"Children" for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefit of this section, and contributions shall be made by the judge so electing as provided in Section 75097.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395.)

§ 75096.3. Surviving Children: Allowance in Lieu of Other Benefits When Judge Dies After Retirement

A monthly allowance equivalent to the allowance payable pursuant to Section 75077 shall be paid, in lieu of any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, and to the guardian of a Surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases, of a judge who dies after retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death while receiving an allowance payable pursuant to Section 75077. The amount paid shall be divided equally among the children.

"Children," for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her retirement.

"Disabled" or "disability" means, with respect to qualification for an allowance to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefits of this section, and contributions shall be made by any retired judge so electing as fixed by Section

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75097 to be deducted from the judge's retirement allowance during hisor her lifetime as provided in Section 75106.5.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to discontinuance of service as a judge.

The amendments made to this section during the 1991-92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993. A retired judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097 had he or she been covered by this article at the time of retirement.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395; and by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75097. Surviving Children: $3 Contribution

Any judge electing to come within this article shall contribute three dollars ($3) a month to the Judges' Retirement Fund. The contribution shall be deducted from the monthly salary of each judge so electing by the Controller and each county auditor in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

(Added by Stats. 1970, Ch. 1100; amended by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75098. Surviving Children: Waiver of Allowance for Higher Benefits

If an allowance is paid under this article no payment shall be made pursuant to Section 75104 or Section 75104.5, provided however, that if the prospective allowance payable to the children under the provisions of this article upon the death of a judge or retired judge without a surviving spouse is less than the aggregate amount payable under the provisions of Sections 75104 and 75104.5, and the judge has designated his children as his beneficiaries, the guardian of the children under age 18 and the children over 18 may elect to take the latter amount and waive the allowance otherwise payable under this article.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395.)

ARTICLE 6. JUDGES' RETIREMENT FUND

§ 75100. Judges' Retirement Fund

There is in the State Treasury a fund known as the Judges' Retirement Fund. All retirement allowances payable by law to judges shall be paid out of this fund.

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The fund shall consist of all cash, securities, or other assets paid into it in accordance with this article.

(Added by Stats. 1953, Ch. 206.)

§ 75101. State Contribution

The Controller shall at the end of each month ascertain the aggregate amount of the annual salaries of judges covered by the system, and out of the General Fund he or she shall transfer monthly into the Judges' Retirement Fund a sum equal to 8 percent of one-twelfth of the aggregate amount of those salaries.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1962 1st Ex Sess, Ch. 62, effective and operative 5/1/62; by Stats. 1964 1st Ex Sess, Ch. 144; by Stats. 1967, Ch. 17; by Stats. 1989, Ch. 1417; by Stats. 1998, Ch. 931, effective 9/28/98; and by Stats. 1999, Ch. 785.)

§ 75102. Salary Deductions by the State

Except as provided in Section 75103.3, the Controller shall at the end of each month commencing with the salary for the month of July 1964 deduct 8 percent from the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each Justice of the Supreme Court and of the courts of appeal and of the portion paid by the state of the monthly salary of each judge of the superior court and shall cause this amount to be paid into the Judges' Retirement Fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1962 1st Ex Sess, Ch. 62, effective and operative 5/1/62; by Stats. 1964 1st Ex Sess, Ch. 144; by Stats. 1967, Ch. 17; by Stats. 1985, Ch. 524, effective 9/9/85; and by Stats. 2001, Ch. 118, effective 7/30/01.)

§ 75103. Salary Deductions by Counties

Except as provided in Section 75103.3, the auditor of each county shall deduct 8 percent from the portion paid by a county of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior court and cause this amount to be paid into the Judges' Retirement Fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1962 1st Ex Sess, Ch. 62, effective and operative 5/1/62; by Stats. 1964 1st Ex Sess, Ch. 144; by Stats. 1985, Ch. 524, effective 9/9/85; by Stats. 1989, Ch. 1417; by Stats. 1998, Ch. 931, effective 9/28/98; by Stats. 2001, Ch. 118, effective 7/30/01; and by Stats. 2002, Ch. 784.)

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§ 75103.1. Increases in Contribution Rate

The Legislature reserves the right to increase the rates of contribution prescribed by Sections 75101 to 75103, inclusive, in such amounts as it may find appropriate.

(Added by Stats. 1959, Ch. 1363.)

§ 75103.2. Reduction of Benefits

The Legislature reserves the right to reduce any benefits applicable to any person who becomes a judge on and after January 1, 1980.

(Added by Stats. 1979, Ch. 709.)

§ 75103.3. Employer "Pick-up" of Contributions

Notwithstanding any other provision of law, the state and the county may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be deducted under Sections 75102 to 75103, inclusive, and paid into the Judges' Retirement Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge's account.

Nothing in this section shall be construed to limit the authority of the state or the county to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

This section shall not affect the computation of a judge's retirement allowance.

(Added by Stats. 1985, Ch. 524, effective 9/9/85.)

§ 75103.5. Payment of Member Contributions from County Funds

No county shall directly or indirectly pay from its funds the member contributions to the Judges' Retirement Fund required by this article.

(Added by Stats. 1990, Ch. 1232, operative 1/9/91.)

§ 75103.6. Calculation of Benefits—Voluntary Waiver of Salary Program

Calculations of retirement benefits and Extended Service Incentive Program benefits under this chapter for any judge in the Voluntary Waiver of Salary Program, as described in paragraph (4) of subdivision (b) of Section 68106, shall include salary and contributions that would have been paid had the judge not been in the program. The state shall pay the costs that result from the increased benefits and monetary credits.

(Added by Stats. 2009, Ch. 240.)

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§ 75104. Accumulated Contributions: Refund or Payment to Beneficiary

(a) Except as otherwise provided in subdivisions (b) and (c), should any judge die, resign, or cease to be a judge prior to his or her retirement, or die after electing to allow his or her accumulated contributions to remain in the fund pursuant to Section 75033 but prior to attaining age 65, the amount of his or her accumulated contribution shall be paid to his or her beneficiary nominated by written designation duly filed with the Judges' Retirement System, or to him or her, as the case may be. If an allowance is paid to a surviving spouse pursuant to this chapter, no payment shall be made pursuant to this section.

(b) A judge who has filed a declaration of candidacy for election or reelection to any judicial office may not withdraw his or her contributions until after the election. If a judge is elected or reelected to a judicial office, he or she may not withdraw his or her contributions until he or she has declined to accept the office or has ceased to hold the office to which he or she has been elected.

(c) A judge who has been appointed, commissioned, or nominated to any judicial office of this state may not withdraw his or her contributions until he or she has declined to serve or terminated his or her service in the latter office.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1969, Ch. 470; by Stats. 1978, Ch. 50, effective 3/17/78; by Stats. 1984, Ch. 1320, effective 9/24/84; and by Stats. 2002, Ch. 664.)

§ 75104.4. Death Before Retirement—Survivor Allowance

(a) The surviving spouse of any judge who dies on or after January 1, 1954, but before retirement and after becoming eligible for retirement pursuant to Section 75025 or 75033 or who dies on or after January 1, 1954, while serving as judge and has served as a judge for 30 years, shall receive an allowance equal to one-half of the amount of the unmodified retirement allowance that would be payable to the judge were he or she living and retired under this chapter. The allowance is payable commencing upon the day following the date of the death of the judge and continuing until the death of the surviving spouse. If, pursuant to this section, an allowance is paid to the surviving spouse of a judge, no payment shall be made pursuant to Section 75104 or 75104.5.

(b) The Legislature hereby finds and declares that the payment of allowances to the surviving spouse of a judge pursuant to this section, as amended at the 1959 Regular Session of the Legislature, serves a public purpose in that it promotes the public welfare by encouraging experienced jurists to continue their service in the expectation that the Legislature will fairly provide for their surviving spouses under changing circumstances, as the Legislature is now doing for spouses of judges who have heretofore died. Continued service by, and increased efficiency of, judges secure in this knowledge will more than compensate the state for any increased

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expense for allowances to surviving spouses provided by the amendment enacted at the 1959 session of the Legislature.

(Added by Stats. 1957, Ch. 2065; amended by Stats. 1959, Ch. 2105; by Stats. 1986, Ch. 115; by Stats. 2002, Ch. 664; and by Stats. 2004, Ch. 231.)

§ 75104.5. Death Before Retirement—Basic Death Benefit

Upon the death of a judge before retirement there shall be paid to his or her beneficiary, if he or she has designated one, and if not, to his or her estate, in addition to any other benefits provided by this chapter or by Division 4 of the Labor Code, an amount equal to one-twelfth of the annual compensation of that judge during the 12 months immediately preceding his or her death, multiplied by the completed number of years of service as a judge, but not to exceed one-half of the judge's annual compensation. The benefit accorded by this section is not payable if the deceased judge's spouse survives him or her and is entitled to receive an allowance for life pursuant to the provisions of this chapter.

(Added by Stats. 1957, Ch. 2065; amended by Stats. 2002, Ch. 664.)

§ 75105. Authority to Invest

The Board of Administration of the Public Employees' Retirement System shall have authority to invest the money contained in the Judges' Retirement Fund in the same manner and subject to the same restrictions as investments of the Public Employees' Retirement Fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1953, Ch. 314; and by Stats. 1978, Ch. 384.)

§ 75106. Custodian of the Fund

The State Treasurer is the custodian of the Judges' Retirement Fund. At the end of each month the Judges' Retirement System shall ascertain the written notices of voluntary retirement and the written certificates of involuntary retirement that have been filed with the Judges' Retirement System and cause warrants to be drawn upon the State Treasury in favor of each retired judge for the amount of the retirement allowance to which he or she is entitled.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 664.)

§ 75106.5. Deduction for Group Insurance or Credit Union Payments

A retired judge or the surviving spouse of a judge, entitled to receive an allowance under the provisions of this chapter, may authorize deductions to be made from the allowance, in accordance with regulations established for the payment of group insurance premiums and other premiums provided for under the

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provisions of Section 1156 of this code as well as shares or obligations of any regularly chartered credit union.

(Added by Stats. 1959, Ch. 1363; amended Stats. 1969, Ch. 281.)

§ 75107. Insufficient Money in the Fund

Whenever it appears to the Judges' Retirement System that the money in the Judges' Retirement Fund is insufficient, or is likely to become insufficient, to pay all retirement allowances payable by law to retired judges and all other obligations of the fund which will become payable during the ensuing fiscal year, the Judges' Retirement System shall report such condition of the fund to the Legislature at its next regular session, and upon receipt of such report it shall be the duty and obligation of the Legislature to appropriate, in the State Budget Act, or otherwise, such sums as may be necessary to make the Judges' Retirement Fund fully sufficient to pay all of the obligations of the fund which will become payable during the ensuing fiscal year.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1986, Ch. 115.)

§ 75108. Administrative Expenses

Notwithstanding any other provision, all expenses of administration of this article shall be paid by appropriation from the fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1983, Ch. 639, effective 9/1/83.)

§ 75109. Refund of Overpayment of Contributions

If the Judges' Retirement System determines that there has been an overpayment of contributions or that any amount not required to be paid under this chapter has been paid by a judge, the Judges' Retirement System shall refund the amount of the overpayment or excess payment to the judge. So much money as may be necessary is hereby appropriated from the Judges' Retirement Fund for the purpose of making refunds under this section.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1986, Ch. 115.)

§ 75109.1. Write-Off of Specified Amounts

(a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars ($250) or less.

(b) Notwithstanding Section 75109, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars ($50) or less remaining posted to a member's individual account, or an overpayment of fifty

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dollars ($50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars ($250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars ($250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars ($5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 13943.2.

(Added by Stats. 2004, Ch. 231.)

§ 75109.5. Actuarial Valuation Requirements

The Judges' Retirement System shall keep in convenient form such data as is necessary for the actuarial valuation of this retirement law. As of June 30, 1973, and thereafter at the ends of periods not to exceed four years, the Judges' Retirement System shall cause to be made an actuarial investigation into the mortality, service and compensation experience of members and persons receiving benefits and an actuarial valuation of the assets and liabilities of this retirement law. From time to time the Judges' Retirement System shall determine the rate of interest being earned on the Judges' Retirement Fund.

The Judges' Retirement System shall cause to be published, as of the date of the investigation and valuation, a financial statement showing an actuarial valuation of the assets and liabilities of the system and a certified statement as to the accumulated cash and securities in the Judges' Retirement Fund. The Judges' Retirement System shall include recommendations for financing the retirement law in the financial statement.

(Added by Stats. 1972, Ch. 1263; amended by Stats. 1986, Ch. 115.)

§ 75109.6. Actuarial Assumptions

When there is insufficient data upon which to establish mortality rates or other actuarial assumptions required to evaluate the obligations of the system, the board may adopt appropriate assumptions which are necessary, upon the advice and recommendation of the actuary.

All computations, payments, and other acts previously made or done by the board or its officers and employees which would be valid if this section has been in effect at the time the computations, payments, or other acts were made or done are hereby ratified, confirmed, and validated.

(Added by Stats. 1981, Ch. 388.)

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§ 75109.7. Penalties for Failure to Submit Timely Reports

The board may assess a county a reasonable amount to cover costs incurred because of the county's failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges' Retirement Fund.

The board may charge interest on the amount of any payment due and unpaid by a county until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.

(Added by Stats. 1982, Ch. 863.)

§ 75110. Repealed

(Repealed by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75111. Unclaimed Benefits

(a) Whenever a person entitled to payment of a member's contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) Whenever the amount of a benefit payable by this system cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be acertained, the contributions of the member on whose account the benefit is payable shall be administered in accordance with subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the retirement fund and held for the claimant without accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become a part of the fund. Transfer to the fund shall be made as of the June 30th next following the expiration of the four-year period.

The board may at any time after transfer of proceeds to the fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

(Added by Stats. 1983, Ch. 773.)

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OTHER RELEVANT LAW SECTIONS

Chapter 7. Compensation

§ 20639. Final Compensation—Concurrent Retirement with Judges', Legislators', or Teachers' Retirement Systems

The compensation earnable during any period of service as a member of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, or the Defined Benefit Program of the State Teachers' Retirement Plan shall be considered compensation earnable as a member of this system for purposes of computing final compensation for the member, if he or she retires concurrently under both systems.

A member shall be deemed to have retired concurrently under this system and under the Defined Benefit Program of the State Teachers' Retirement Plan, if the member is enrolled as a disabled member under the Defined Benefit Program of the State Teachers' Retirement Plan and for retirement under this system on the same effective date.

(Added by Stats. 1978, Ch. 900; amended by Stats. 1980, Ch. 1168, effective 9/29/80; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 939; and by Stats. 2001, Ch. 433.)

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TITLE 8. THE ORGANIZATION AND GOVERNMENT OF THE COURTS

Chapter 2. The Judicial Council

ARTICLE 2. ASSIGNMENT OF JUDGES

§ 68543.5. Compensation of Retired Judge Assigned to Sit in Court

(a) Whenever a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not a member of the Judges' Retirement System nor the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation shall be paid by the Judicial Council out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

(b) If a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which the retired judge is assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund, as applicable.

(c) During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the California Victim Compensation and Government Claims Board that are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.

(d) Notwithstanding subdivisions (a), (b), and (c) pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

(Added by Stats. 1961, Ch. 681; amended by Stats. 1961, Ch. 1773; by Stats. 1967, Ch. 17; by Stats. 1971, Ch. 1049; by Stats. 1980, Ch. 51; by Stats. 1984, Ch. 1580 and Ch. 1586, operative 7/1/85; by Stats. 1988, Ch. 1310; by Stats.

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1989, Ch. 1389, operative 7/1/90; by Stats. 1990, Ch. 187, effective 6/29/90, operative 7/1/90; by Stats 1991, Ch. 90, effective 6/30/91, Ch. 189, effective 7/29/91, and Ch. 613; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; by Stats. 2002, Ch. 661; and by Stats. 2006, Ch. 538.)

§ 68543.7. Availability and Payment of Retired Judges Sitting on Assignment

Subject to funding in the Budget Act, the Chief Justice shall make available by assignment the equivalent of 50 additional full-time judges. A judge retired under the Judges' Retirement System or the Judges' Retirement System II sitting on assignment in a trial court shall be paid in the amount of 92 percent of 1/250th of the annual salary of a judge of the court to which he or she is assigned for each day of service in the court.

(Added by Stats. 1991, Ch. 90, effective 6/30/91; amended by Stats. 1991, Ch. 189, effective 7/29/91; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94.)

ARTICLE 3. COORDINATED EDUCATIONAL PROGRAMS FOR THE JUDICIARY

§ 68554. Study Leave for Judges

Notwithstanding subdivisions (f) and (g) of Section 1770, the Judicial Council may grant any judge a leave of absence for a period not to exceed one year for the purpose of permitting study which will benefit the administration of justice and the individual's performance of judicial duties, upon a finding that the absence will not work to the detriment of the court. During a study leave, the judge shall receive no compensation, nor shall the period of absence count as service toward retirement, but the time of leave shall not toll the term of office.

(Added by Stats. 1992, Ch. 1199, effective 9/30/92.)

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ARTICLE 1. GENERAL PROVISIONS

§ 75500. Title

(a) This chapter shall be known and may be cited as the Judges' Retirement System II Law.

(b) Chapter 11 (commencing with Section 75000) shall not apply to this chapter and shall not apply to judges, as defined in Section 75502.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75501. Construction

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

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75502. Definitions

(a) "Judge" means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, municipal court, or justice court who is first elected or appointed to judicial office on or after November 9, 1994, and is not a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000). A retired judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a temporary judge of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

A former member of the Judges' Retirement System under Section 75002 who withdrew his or her contributions upon leaving office, and who takes judicial office on or after November 9, 1994, becomes a member of the system existing under Chapter 11 (commencing with Section 75000) and does not become a member of the Judges' Retirement System II. No person shall be a member of the Judges' Retirement System II who is or ever has been a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000).

(b) "System" means the Judges' Retirement System II established by this chapter.

(c) "Service" means the period of time a judge received a salary and made contributions to the system by reason of holding office as a judge of any one or more of the courts of this state specified in subdivision (a), computed in years and fractions of years.

(d) "Final compensation" means the average monthly salary of a judge during the 12 months immediately preceding his or her retirement from or otherwise leaving judicial office and as limited by Section 75572.

(e) "Benefit factor" means the percentage used in calculating a judge's monthly retirement allowance under Section 75522.

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(f) "Contributions" means the accumulated deductions from the judge's salary under Sections 75601 and 75602. References to payment to a judge of his or her contributions or to the determination of a judge's and spouse's shares in the contributions include both the contributions and interest thereon at the rates determined by the Board of Administration of the Public Employees' Retirement System.

(g) "Salary" means the compensation received by a judge as the emolument of the office of judge, but does not include any additional compensation received by reason of designation as a temporary judge or assignment by the Chairperson of the Judicial Council or the additional compensation pursuant to Section 68203.1.

(h) "Board" means the Board of Administration of the Public Employees' Retirement System.

(i) "Fund" or "retirement fund" means the Judges' Retirement System II Fund established pursuant to Section 75600.

(j) All references to "spouse," "surviving spouse," or "marriage" in this chapter apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1995, Ch. 829; and by Stats. 2001, Ch. 118, effective 7/30/01; amended by Stats. 2012, Ch. 833.)

§ 75505. Administration of Law

(a) This chapter shall be administered and governed pursuant to the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in this chapter, except for those provisions that provide for the payment of an allowance or other benefit and except for those provisions that conflict with any provision of this chapter. To the extent applicable, the Board of Administration of the Public Employees' Retirement System shall administer this chapter in conformance with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to the same extent and with the same effect as if the provisions of the act are contained in the Judges' Retirement System II Law. If the Board of Administration of the Public Employees' Retirement System determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and this chapter, the provisions of the California Public Employees' Pension Reform Act of 2013 shall control.

(b) All payments from the Judges' Retirement System II Fund shall be made upon warrants drawn by the Controller upon demands by the Board of Administration of the Public Employees' Retirement System.

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(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2013, Ch. 526.)

§ 75506. Member Statements

The board shall, annually, send each judge a member statement which shall include information regarding accrued service credit, accrued monetary credits, retirement eligibility dates, and other pertinent information.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75506.5. Subordinate Judicial Officer

(a) Any judge may elect, by written election filed with the board at any time prior to retirement, to make contributions, and receive service credit for, all of the time he or she served as a full-time subordinate judicial officer, as defined in Section 71601, prior to becoming a judge, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

(b) A judge electing to receive credit for service pursuant to this section shall, at the time of filing his or her election, pay into the Judges' Retirement Fund II, a sum equal to the actuarial present value of the increase in benefits due to the additional service. The amount shall be determined by the board in accordance with this section.

(Added by Stats. 2001, Ch. 433.)

§ 75506.6. Credit for Military Service

(a) A judge may elect, in writing filed with the Judges' Retirement System II, to make contributions and receive service credit in this system for active service, performed prior to entering this system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit for that service shall be granted on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge electing to receive credit for that service shall have at least one year of judicial service credited on the date of the election or the date of retirement. If the service described in this subdivision terminated with a dishonorable discharge, service credit in the system may not be granted under this section.

(b) For purposes of this section, a judge means a judge as defined under Section 75502 or a judge who has retired under Section 75521 or 75522.

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(c) The retirement allowance of a retired judge who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(d) A judge who elects to receive credit for service pursuant to this section shall contribute to the Judges' Retirement Fund II a sum equal to the actuarial present value of the increase in benefits due to the additional service, as determined by the chief actuary and approved by the board.

(e) An election by a judge to receive credit for service under this section shall be effective only if accompanied by a lump-sum payment or an authorization for payment, other than a lump-sum payment, in accordance with regulations adopted by the board.

(Added by Stats. 2004, Ch. 231.)

§ 75506.7. Military Duty Service Credit Purchase—Member Contribution

(a) A judge may receive service credit for the purposes of retirement under Section 75522 or 75560, or for purposes of calculating survivor benefits under Section 75590, for the time during which he or she was absent from his or her position as a judge by reason of service with the uniformed services, if the judge returns to judicial office within six months of separation from an eligible period of service in the uniformed services, as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, and the judge elects and satisfies the requirements of subdivision (b).

(b) In order to receive service credit under subdivision (a) a judge shall contribute an amount equal to the member contributions that would have been made by the judge during the absence as required under Sections 75061 and 75602. The judge's contributions shall be made prior to the judge's retirement and shall be effective only if accompanied by a lump-sum payment of the contributions due for the period during which the judge was absent due to service with the uniformed services. The judge's payment of contributions shall not exceed the amount the judge would have been required to contribute had the judge not served in the uniformed services and remained in judicial office continuously throughout the eligible period of service in the uniformed services.

(c) Upon satisfaction of the requirements of subdivisions (a) and (b), the judge shall be credited with the service that would have accrued had the judge remained continuously employed and not undertaken service in the uniformed services.

(d) Upon satisfaction of the requirements of subdivisions (a) and (b), the judge shall receive the monetary credits that would have accrued under Section 75520 if the member had not served in the uniformed services and had remained in judicial office continuously.

(e) The system shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

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(f) For the purposes of this section:

(1) "Uniformed services" means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

(2) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, or a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the employment for the purpose of performing funeral honors duty as provided in Section 12503 of Title 10 or Section 115 of Title 32 of the United States Code.

(Added by Stats. 2008, Ch. 626.)

§ 75506.8. Military Duty Service Credit Purchase—Employer Contribution

When a judge that satisfies the requirements of Section 75506.7 makes the contributions required to receive service credit for service with the uniformed services, the state shall contribute an amount equal to the contributions that would have been made by the state during the judge's absence. The state's contribution shall be based upon the judge's compensation earnable and the contribution rates in effect at the commencement of the absence.

(Added by Stats. 2008, Ch. 626.)

§ 75507. Allowance: Final Payment Following Death

(a) Any allowance payable to a retired judge or to a surviving spouse or to an eligible surviving child that has accrued and remained unpaid at the time of the death of the judge or the death of a surviving spouse or surviving child, or any unclaimed warrant issued prior to the date of death and returned to the board, shall be paid pursuant to the following order:

(1) The survivor entitled to an allowance payable by the board.

(2) The beneficiary designated by the surviving spouse, eligible surviving child, or retired judge if there is no eligible survivor.

(3) The estate of the deceased, if there is no one entitled to payment under paragraph (1) or (2). The payment to the estate shall be paid to either the estate of the deceased or the duly authorized representative or representatives of the estate when this system receives a court order appointing an executor, administrator, or personal representative.

(4) If the estate does not require probate and the deceased has a trust, the payment may, in the judgment of the board, be paid to the successor trustee named in the trust.

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(5) If the estate does not require probate and the deceased does not have a trust, the payment may, in the judgment of the board, be paid to the beneficiary or beneficiaries of the deceased named in a valid will.

(b) If there is no qualifying beneficiary pursuant to paragraphs (1) to (5), inclusive, of subdivision (a), the payment shall be paid to the surviving next of kin of the deceased pursuant to the order of distribution specified in Section 21493.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2009, Ch. 130.)

§ 75508. Beneficiary: Designation of Final Payment Following Death

The surviving spouse or eligible surviving child of a deceased judge who is receiving a monthly allowance from the system, or a retired judge, if there is no spouse or eligible child, may designate a beneficiary to receive the pro rata allowance remaining payable in the month of his or her death. The designation may be made, changed, or revoked at any time, and shall be in writing and filed with the system.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

ARTICLE 2. EARLY RETIREMENT AND NORMAL RETIREMENT

§ 75520. Monetary Credit Accrual

(a) A judge shall, monthly, accrue monetary credits equal to 18 percent of the judge's monthly salary.

(b) To the total monetary credits in each judge's account, an additional amount shall be credited monthly at a rate, not less than zero, equal to the annual net earnings rate achieved by the Judges' Retirement System II Fund on its investments of moneys in the Judges' Retirement System II Fund during the preceding fiscal year.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1998, Ch. 212; and by Stats. 1999, Ch. 785.)

§ 75521. Early Retirement

(a) A judge who leaves judicial office before accruing at least five years of service shall be paid the amount of his or her contributions to the system, and no other amount.

(b) A judge who leaves judicial office after accruing five or more years of service and who is not eligible to elect to retire under Section 75522 shall be paid the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution, and no other amount.

(c) Judges who leave office as described in subdivision (b) are "retired judges" for purposes of a concurrent retirement with respect to the benefits provided under

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Section 20639 and assignment pursuant to Article 2 (commencing with Section 66540) of Chapter 2 and are eligible for benefits provided under Section 22814.

(d) After a judge has withdrawn his or her accumulated contributions or the amount of his or her monetary credits upon leaving judicial office, the service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges' Retirement System II Fund the amount withdrawn, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of withdrawal to the date of payment.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1996, Ch. 482; by Stats. 1999, Ch. 785; by Stats. 2001, Ch. 433; and by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 75522. Allowance: Benefit Factor Defined

(a) A judge is eligible to retire pursuant to this section upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of five years of service.

(b) The office of a judge who retires under this section becomes vacant on the date of the retirement.

(c) A judge who retires pursuant to this section shall, within 30 days after the effective date of the retirement, elect to receive either the benefits provided by subdivision (d) or the benefits provided by subdivision (e). Under rules adopted by the board, the time for the election may be extended in cases of illness or other hardship, but once made, the election shall be final and irrevocable.

(d) The judge may elect to receive for life a monthly retirement allowance equal to the benefit factor multiplied by the judge's final compensation multiplied by the number of years of service credit.

(1) The benefit factor for a judge eligible to retire pursuant to this section equals 3.75 percent per year of service.

(2) In no event shall the retirement allowance at the time of retirement exceed 75 percent of the judge's final compensation.

(e) The judge may elect to receive the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution. Under rules adopted by the board, the judge may elect to receive that amount in a single payment, or may direct that it be paid in an annuity of actuarially equivalent value for the judge's life or in one of the optional forms provided for in Section 75571.

(f) If a retired judge fails or refuses to make an election pursuant to subdivision (c) within the time allowed, he or she shall be deemed to have elected to receive a monthly retirement allowance under subdivision (d).

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(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1998, Ch. 212.)

§ 75523. Cost of Living Adjustments (COLAs)

(a) The retirement allowance of retired judges who have elected to receive a monthly allowance under subdivision (d) of Section 75522 or who have retired for disability and are receiving an allowance under Section 75560.4 shall be adjusted effective in January of each year after a judge has been retired under this chapter for more than six months, to reflect any increase in the cost of living occurring after January 1 of the immediately preceding fiscal year. The United States city average of the "Consumer Price Index for all Urban Consumers," as published by the United States Bureau of Statistics, shall be used as the basis for determining changes in the cost of living.

(b) No adjustment shall be made unless the cost-of-living increase equals or exceeds 1 percent. The allowance shall not be increased more than 3 percent in a single year. Increases shall be compounded.

(c) The allowance shall not be decreased as a result of the cost-of-living adjustment.

(d) The board shall provide, by rule, any details needed for the implementation of this section.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1999, Ch. 785.)

§ 75524. Temporary Judge

Any designation as a temporary judge or any assignment by the Chairperson of the Judicial Council shall be disregarded for purposes of this chapter. For the purposes of this chapter, no person shall acquire status as a judge, nor shall any person's status as a judge be affected, by that designation or assignment.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75525. Deduction for Group Life Insurance

Retired judges, and beneficiaries, who are entitled to receive allowances under this chapter, may authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the board for payment of group life insurance premiums for a group life insurance plan approved by the Director of Finance.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75526. Effect of Commission of a Felony

A judge who pleads guilty or no contest or is found guilty of a crime committed while holding judicial office that is punishable as a felony under California or federal law and which either involves moral turpitude under that law or was committed in the

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course and scope of performing the judge's duties, and the conviction becomes final shall not receive any benefits from the system, except that the amount of his or her contributions to the system shall be paid to him or her by the system.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75527. Internal Revenue Code: Limitation on Benefits

Notwithstanding any other provision of this chapter, the benefits payable to any person shall be subject to the limitations set forth in the Internal Revenue Code.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75528. Concurrent Retirement

A judge must have a minimum of six years of judicial service to be eligible for benefits provided by retiring concurrently from this system and the Public Employees' Retirement System or a retirement system subject to the County Employees Retirement Law of 1937 pursuant to Section 20639 or 31840.8.

(Added by Stats. 2001, Ch. 433.)

ARTICLE 3. COMMUNITY PROPERTY

§ 75550. Definitions

In this article, unless the context indicates otherwise:

(a) "Member" means a judge as defined in Section 75502.

(b) "Nonmember" means the spouse or former spouse of a member, who as a result of petitioning the court for the division of community property has been awarded a distinct and separate account reflecting specific monetary credits, specific credited service, and accumulated contributions.

(c) "Court" means the court with jurisdiction over the marriage.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75551. Separation of Community Property

(a) If a member's marriage is dissolved or a member and his or her spouse are legally separated while the member is an active judge, the court shall make the following determinations:

(1) The number of years of service that accrued during the marriage of the member and nonmember, down to the date of their separation.

(2) The date of the parties' separation.

(3) If the member had been a judge for fewer than five years on the date of separation, the court shall determine the member's and nonmember's shares of the judge's contributions to the fund, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage.

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(4) If the member had been a judge for five years or more on the date of separation, the court shall determine the member's and nonmember's shares of the judge's monetary credits that have accrued pursuant to Section 75520, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage. The monetary credits include the credits computed pursuant to subdivision (b) of Section 75520 computed to the date the court finds appropriate.

(b) The determinations made pursuant to paragraphs (1) and (2) and pursuant to paragraph (3) or (4) of subdivision (a) shall be included in the judgment of dissolution or separation. The system shall deem any portion of the judge's contributions or of the judge's monetary credits that were not allocated by the judgment to the nonmember, to be allocated to the member.

(c) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's contributions pursuant to paragraph (3) of subdivision (a), the fund shall pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(d) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's monetary credits pursuant to paragraph (4) of subdivision (a), the fund shall pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(e) The amount of the payment pursuant to subdivision (c) or (d) shall be subtracted from the member's monetary credits as computed pursuant to Section 75520. Until the amount is redeposited pursuant to Section 75552, the additional credits accorded pursuant to subdivision (b) of Section 75520 shall be computed on the amount so reduced.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1996, Ch. 482.)

§ 75552. Nonmember: Redeposit of Refund by Member

(a) After payment of a portion of the member's contributions to a nonmember pursuant to subdivision (b) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of payment to the date of redeposit. A partial redeposit shall not be accepted.

(b) After payment of a portion of the member's monetary credits to a nonmember pursuant to subdivision (c) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the greater of: (1) the rate of interest then being required to be paid by members of the Public

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Employees' Retirement System under Section 20750 from the date of payment to the date of redeposit; or (2) the compounded amounts that would have been credited to the member's monetary account pursuant to subdivision (b) of Section 75520 had the payment not been made to the nonmember. A partial redeposit shall not be accepted.

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

§ 75553. Community Property Rights

(a) If a member leaves judicial office after a nonmember has received a share of the member's contributions or a share of the member's monetary credits pursuant to Section 75551, the member's retirement fund rights shall be determined pursuant to this section.

(b) If the member has redeposited the amount paid to the nonmember, with interest, pursuant to Section 75552, the payment to the nonmember shall be ignored and the member's rights shall be determined as though the payment to the nonmember had not occurred; and subdivisions (c), (d), and (e) shall not apply.

(c) If the member leaves judicial office before accruing at least five years of service, he or she shall be paid the dollar amount of his or her contributions to the system minus the amount paid to the nonmember, and no other amount.

(d) If the member leaves office after accruing five or more years of service and either: (1) elects, pursuant to subdivision (e) of Section 75522, to receive the amount of his or her monetary credits; or (2) is entitled, pursuant to subdivision (b) or (c) of Section 75521 to receive only the amount of his or her monetary credits, the member shall be paid the amount of his or her monetary credits as provided in Section 75521 or subdivision (e) of Section 75522, reduced as provided in subdivision (d) of Section 75551.

(e) If the member is eligible for retirement pursuant to Section 75522 and elects, pursuant to subdivision (d) of Section 75522, to receive a monthly allowance, the judge's monthly allowance shall equal the monthly allowance that would have been payable pursuant to subdivision (d) of Section 75522 based on the judge's service and salary, multiplied by a fraction equal to:

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

where:

"S"	=	the member's total service
"MS"	=	the member's service while married to the nonmember prior to their separation
"NMS"	=	the member's service while not married to the nonmember

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(f) If, notwithstanding paragraph (1) of subdivision (a) of Section 75551, the judgment did not specify the number of years of service that accrued during the marriage or other necessary facts, the system may make its own determination in order to make the computation in subdivision (e).

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

ARTICLE 4. DISABILITY RETIREMENT

§ 75560. Eligibility Requirements

No judge shall be eligible to be retired for disability unless the judge is credited with at least five years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75560.1. Disability and Disability Retirement, Defined

(a) Any judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability that is or is likely to become permanent may, with his or her consent and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Performance, be retired from office. The consent of the judge shall be made on a written application to the Commission on Judicial Performance, signed by the judge or a family member or legal representative acting on the judge's behalf. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b). A certificate evidencing the approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing his or her consent that has been received in the office of the commission and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his or her death if the designated officers, prior to the filling of the vacancy created by the judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he or she has personally examined the judge applying for retirement under this section and that he or she is of the opinion that the judge is unable to discharge efficiently the duties of the judge's office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

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§ 75560.3. Repealed

(Repealed by Stats. 2001, Ch. 745, effective 10/12/01.)

Note: The text of former Section 75560.3 follows:

§ 75560.3. Commission on Judicial Performance—Annual Report

(a) The Commission on Judicial Performance shall annually submit to the Governor and the Legislature a report on the incidence of ordered, requested, and granted disability retirements in the preceding fiscal year.

(b) The report shall include the following:

(1) The number of years the affected judges have served as a judge on the date of receipt of the application for disability retirement and on the effective date of the disability retirement.

(2) The age of the judge on the date of receipt of the application for disability retirement and on the effective date of his or her disability retirement.

(3) The physical or mental impairment that was the basis for the application by the judge for disability retirement, for the granted disability retirement, or for the ordered disability retirement, using the following categories to describe the impairment:

(A) Orthopedic.

(B) Psychological.

(C) Cardiovascular.

(D) Internal.

(E) Neurological.

(F) Other.

(4) Any other information deemed relevant by the Commission on Judicial Performance.

(Added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94.)

§ 75560.4. Benefit Factor

(a) A judge who retires for disability shall receive a retirement allowance in an amount equal to the lower of the following:

(1) The benefit factor under subdivision (d) of Section 75522 multiplied by the judge's final compensation on the effective date of the disability retirement, multiplied by the number of years of service the judge would have been credited if the judge's service had continued to the age the judge would have first been eligible to retire under subdivision (a) of Section 75522.

(2) Sixty-five percent of the judge's final compensation on the effective date of the disability retirement.

(b) Notwithstanding subdivision (a), the retirement allowance of a judge who retires for disability shall equal 65 percent of the judge's final compensation on the effective date of the disability retirement regardless of the judge's age or length of service, if the Commission on Judicial Performance determines that the disability is predominantly a result of injury arising out of and in the course of judicial service.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2006, Ch. 538.)

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§ 75560.6. Medical Examination

The Commission on Judicial Performance, in its discretion, but not mere often than once every two years, may require any judge who is receiving an allowance under this article and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians and surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of the justice or judge except while under assignment to a court by the Chairperson of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. Section 68543.5 is applicable to the judge.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75562. Effect of Commission of a Felony

A judge who applies for disability retirement and against whom there is pending a criminal charge of the commission of, or who has been convicted of, a felony under California or federal law, allegedly committed or committed while holding judicial office, prior to the approval of the application:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75563. Disciplinary Proceeding

A judge against whom there is pending a disciplinary proceeding that could lead to his or her removal from office or who has been removed from office for judicial misconduct, prior to the approval of his or her application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

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(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75564. Election Defeat

A member who is defeated at an election and who either had submitted, prior to the date of the election, an application for disability retirement or submits, on or after the date of the election, an application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

ARTICLE 5. PAYMENT OF BENEFITS

§ 75570. Optional Settlement Election

(a) In lieu of the retirement allowance under subdivision (d) of Section 75522 for his or her life alone, a judge who elects to retire with a monthly allowance under subdivision (d) of Section 75522 may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75571.

(b) That election, revocation, or change of election shall be made by a writing filed with the system within 30 calendar days after the making of the first payment on account of any retirement allowance.

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

§ 75571. Optional Settlements

(a) Optional settlement one consists of the right to have a retirement allowance paid him or her until his or her death and if he or she dies before he or she

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receives the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her surviving spouse or estate.

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

(2) If the judge's spouse predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the spouse to reflect the benefit that would have been paid had the judge not elected an optional settlement.

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

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

(2) If the judge's spouse predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the spouse to reflect the benefit that would have been paid had the judge not elected an optional settlement.

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

(d) Optional settlement four consists of other benefits that are the actuarial equivalent of his or her retirement allowance, that he or she may select subject to the approval of the board.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2001, Ch. 433.)

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§ 75572. Internal Revenue Code: Limitation on Benefits

The benefits payable to any person who first becomes a member of this system on or after July 1, 1996, shall not exceed the limitations in Section 401(a) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for that calendar year. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

(Added by Stats. 1995, Ch. 829.)

§ 75573. Optional Settlement: Waive Increase

A judge who elects to receive optional settlement two or three may concurrently and irrevocably elect to waive the provision for an increase to his or her allowance, as specified in subdivisions (b) and (c) of Section 75571, and shall, instead, have his or her allowance based upon the waiver of this benefit.

(Added by Stats. 2001, Ch. 433.)

ARTICLE 6. EMPLOYMENT OF RETIRED JUDGES

§ 75580. Employment after Disability Retirement

(a) If a judge who is retired for disability engages in the practice of law or other gainful occupation that requires the discharge of duties substantially similar to those duties that the judge was found, pursuant to Section 75560.1, to be unable to perform due to mental or physical disability, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section.

(b) If a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement for disability, the retirement allowance otherwise payable shall, during the time he or she is entitled to receive that salary or other compensation, be reduced by the amount of that salary or compensation.

(c) A judge who is retired for disability may, without loss or reduction in allowance, engage in the practice of law or any other gainful occupation that does not require the discharge of duties substantially similar to those duties the judge was found, pursuant to Section 75560.1, to be unable to perform due to mental or physical disability, other than a public office, as long as the compensation earned in any month when combined with the judge's allowance does not exceed 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, and the retirement allowance

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otherwise payable to the judge shall be reduced by the amount of any earning in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(d) Persons affected by this section shall report all compensation earned in a form and manner required by the board under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

(e) When a judge affected by subdivision (c) reaches the age at which the judge would be eligible to retire for services pursuant to Section 75522 had the judge not retired for disability, the judge's retirement allowance shall be made equal to the amount it would be if not reduced pursuant to this section, and may not again be modified for any cause.

(f) A judge who is retired for disability pursuant to this chapter or becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement for disability pursuant to this chapter is not eligible to receive service credit in another public retirement system or pursuant to this chapter or to be reinstated to this system.

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

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 75580.5. Reinstatement From Retirement

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

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

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

§ 75583. Appointment as Master or Referee

(a) Any judge retired pursuant to this chapter who is appointed by the Supreme Court or any court of appeal, or division thereof, to act as a master or referee in any proceeding pending before any such court or before the Commission on Judicial Performance, shall be paid while so acting, in addition to his or her

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retirement allowance (taken without reduction on account of any election pursuant to Article 6 (commencing with Section 75570)) the difference, if any, between the retirement allowance and the compensation of a judge of the court from which he or she retired.

(b) When appointed to act as referee in a county other than that in which he or she resides, he or she shall also be allowed his or her necessary expenses for travel, board, and lodging incurred in the discharge of that appointment.

(c) The extra compensation and expenses, if any, shall be chargeable to the state.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

ARTICLE 7. SURVIVOR AND INSURANCE BENEFITS

§ 75590. Surviving Spouse: Election of Benefits

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

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

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

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

(c)(1) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (A) died in office, (B) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service, and (C) was eligible to receive an allowance pursuant to Section 75522, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75571.

(2) A surviving spouse receiving an allowance pursuant to this subdivision shall have no other claim to benefits with respect to the Judges' Retirement

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Fund or with respect to any other provision of the Judges' Retirement System II Law.

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

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

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1999, Ch. 671; by Stats. 2000, Ch. 1002; and by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 75591. Surviving Spouse Benefit: Judge Not Eligible to Retire

(a) A surviving spouse of a judge who dies before becoming eligible to retire pursuant to subdivision (a) of Section 75522 shall receive the greater of one of the following:

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

(2) Three times the judge's annual salary at the time of his or her death. The amount shall be paid in equal monthly installments for a period of 36 months.

(b) If there is no surviving spouse, the greater of the amounts prescribed in subdivision (a) shall be paid to the surviving children of the judge; or if none, to the judge's designated beneficiary, or if none, to the judge's estate.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75592. Group Term Life Insurance

Each judge shall receive the same group term life insurance benefits as is granted to other constitutional officers and state managerial employees. The Administrative Office of the Courts shall administer the insurance benefit.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

ARTICLE 8. FUND

§ 75600. State Contribution

There is in the State Treasury, subject to the control of the board, a trust fund known as the Judges' Retirement System II Fund. The fund shall receive all assets paid into it including, without limitation, judges' contributions made pursuant to Sections 75601 and 75602 and the state's contributions made pursuant to Section 75600.5. All retirement allowances payable by law to judges to whom this chapter

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is applicable shall be paid from that fund. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years, for payments which shall be made upon warrants drawn by the Controller upon demands made by the board.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75600.5. State Contribution Rate

(a) The Controller shall at the end of each month ascertain the aggregate amount of the annual salaries, not including the additional compensation pursuant to Section 68203.1, of all judges covered by the Judges' Retirement System II, and out of the General Fund he or she shall transfer monthly into the Judges' Retirement System II Fund a sum equal to 18.8 percent of one-twelfth of the aggregate amount of those salaries.

(b) As of June 30 of the first year this chapter is in effect, and annually thereafter, the board shall make an actuarial investigation into the fund's experience, the ages of member judges, and other facts necessary to determine the actuarial soundness of the fund. Based on its investigation, the board shall determine the state contribution necessary to maintain or restore the actuarial soundness of the fund, stated as a percentage of judges' salaries.

(c) The state's contribution as fixed under this chapter shall be adjusted thereafter from time to time in the annual Budget Act according to the following method. As part of the proposed budget submitted pursuant to Section 12 of Article IV of the California Constitution, the Governor shall include the contribution rate submitted by the board pursuant to subdivision (b). The Legislature shall adopt the contribution rate and authorize the appropriation in the Budget Act.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2001, Ch. 118, effective 7/30/01.)

§ 75601. Salary Deductions by the State

Except as provided in Section 75605, the Controller shall at the end of each month deduct 8 percent from the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each justice of the Supreme Court and of the courts of appeal and of the portion paid by the state of the monthly salary of each judge of the superior court and shall cause this amount to be paid into the Judges' Retirement System II Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2001, Ch. 118, effective 7/30/01.)

§ 75602. Salary Deductions by Counties

Except as provided in Section 75605, the Controller or the auditor of each county shall deduct 8 percent from the portion paid by a county, or the Controller

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and the auditor, if appropriate, of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior court and cause this amount to be paid into the Judges' Retirement System II Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 1998, Ch. 931, effective 9/28/98; by Stats. 2001, Ch. 118, effective 7/30/01; and by Stats. 2002, Ch. 784.)

§ 75603. Increases in Contribution Rate

The Legislature reserves the right to increase the rates of contribution prescribed by Sections 75601 and 75602 in the amounts as it may find appropriate.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75604. Reduction of Benefits

The Legislature reserves the right to reduce any benefits applicable to any person who becomes a judge who is subject to this chapter.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75605. Employer "Pick-Up" of Contributions

(a) Notwithstanding any other provision of law, the state and the county may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be deducted under Sections 75601 and 75602, inclusive, and paid into the Judges' Retirement System II Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge's account.

(b) Nothing in this section shall be construed to limit the authority of the state or the county to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

(c) This section shall not affect the computation of a judge's retirement allowance pursuant to this chapter.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75605.1. Calculation of Benefits—Voluntary Waiver of Salary Program

Calculations of retirement benefits and monetary credit under this chapter for any judge in the Voluntary Waiver of Salary Program, as described in paragraph (4) of subdivision (b) of Section 68106, shall include salary and contributions that would have been paid had the judge not been in the program. The state shall pay the costs that result from the increased benefits and monetary credits.

(Added by Stats. 2009, Ch. 240.)

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§ 75606. Contribution Withdrawal: Effect of Candidacy, Nomination, or Appointment

(a) A judge who has filed a declaration of candidacy for election or reelection to a judicial office may not withdraw his or her contributions under Section 75520 until after the election. If a judge is elected or reelected to a judicial office, he or she may not withdraw the contributions until that time as the judge has declined to accept the office or has ceased to hold the office to which he or she has been elected.

(b) A judge who has been appointed, commissioned, or nominated to a judicial office of this state may not withdraw his or her contributions under Section 75520 until the judge has declined to serve or terminated his or her service in the latter office.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94; amended by Stats. 2006, Ch. 118.)

§ 75607. Authority to Invest

The board may invest the money contained in the Judges' Retirement System II Fund in the same manner and subject to the same restrictions as investments of the Public Employees' Retirement Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75608. Custodian of the Fund

The Treasurer is the custodian of the Judges' Retirement System II Fund. At the end of each month the board shall ascertain the written notices of voluntary retirement and the written certificates of involuntary retirement that have been filed with the Judges' Retirement System II and cause warrants to be drawn upon the State Treasury in favor of each retired judge for the amount of the retirement allowance to which he or she is entitled.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75609. Deduction for Group Insurance or Credit Union Payments

A retired judge or the surviving spouse of a judge, entitled to receive an allowance pursuant to this chapter, may authorize deductions to be made from the allowance, in accordance with regulations established for the payment of group insurance premiums and other premiums provided for under Section 1157, as well as shares or obligations of any regularly chartered credit union.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

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§ 75610. Administrative Expenses

Notwithstanding any other provision of law, all expenses of administration of this article shall be paid by appropriation from the Judges' Retirement System II Fund.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75611. Overpayment of Contributions

If the board determines that there has been an overpayment of contributions or that any amount not required to be paid under this chapter has been paid by a judge, the board shall refund the amount of the overpayment or excess payment to the judge. So much money as may be necessary is hereby appropriated from the Judges' Retirement System II Fund to the board for the purpose of making refunds pursuant to this section.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75611.5. Write-Off of Specified Amounts

(a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars ($250) or less.

(b) Notwithstanding Section 75611, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars ($50) or less remaining posted to a member' s individual account, or an overpayment of fifty dollars ($50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars ($250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars ($250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars ($5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 13943.2.

(Added by Stats. 2004, Ch. 231.)

§ 75612. Penalties for Failure to Submit Timely Reports

(a) The board may assess a county a reasonable amount to cover costs incurred because of the county's failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges' Retirement System II Fund.

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(b) The board may charge interest on the amount of any payment due and unpaid by a county until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75613. Unclaimed Benefits

(a) Whenever a person entitled to payment of a member's contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the Judges' Retirement System II Fund shall be administered pursuant to subdivision (c).

(b) Whenever the amount of a benefit payable by this program cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the contributions of the member on whose account the benefit is payable shall be administered pursuant to subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the fund and held for the claimant without accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become a part of the fund. Transfer to the fund shall be made as of the June 30 next following the expiration of the four-year period.

(d) The board may at any time after transfer of proceeds to the fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

(Added by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

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OTHER RELEVANT LAW SECTIONS

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT LAW

Chapter 7. Compensation

§ 20639. Final Compensation—Concurrent Retirement with Judges', Legislators', or Teachers' Retirement Systems

The compensation earnable during any period of service as a member of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, or the Defined Benefit Program of the State Teachers' Retirement Plan shall be considered compensation earnable as a member of this system for purposes of computing final compensation for the member, if he or she retires concurrently under both systems.

A member shall be deemed to have retired concurrently under this system and under the Defined Benefit Program of the State Teachers' Retirement Plan, if the member is enrolled as a disabled member under the Defined Benefit Program of the State Teachers' Retirement Plan and for retirement under this system on the same effective date.

(Added by Stats. 1978, Ch. 900; amended by Stats. 1980, Ch. 1168, effective 9/29/80; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 939; and by Stats. 2001, Ch. 433.)

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PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT

Chapter 1. Public Employees' Health Benefits

ARTICLE 4. ELIGIBILITY

§ 22814. Inactive Members of JRS & JRS II

(a) A judge who retires pursuant to Chapter 11 (commencing with Section 75000) of Title 8, but is not yet receiving a pension, may continue his or her coverage and the coverage of any family members for the duration of the leave of absence, upon his or her application and upon assuming payment of the contributions otherwise required of the employer.

(b) (1) A judge who leaves judicial office pursuant to subdivision (b) of Section 75521 and has not attained 65 years of age may continue his or her coverage and the coverage of any family members upon assuming payment of the contributions otherwise required of the employer. The judge shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Human Resources.

(2) An election to continue coverage under this subdivision shall be made within 60 days of permanent separation. A retired judge who cancels that coverage may not reenroll.

(3) Upon attaining 65 years of age, a retired judge who has continuous and uninterrupted coverage pursuant to this subdivision shall be entitled to the applicable employer contribution.

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

Note 1: See Note 1 to Section 22808 for history of former Section 22816 (relative to subdivision (a)).

Note 2: Former Section 22816.31 (relative to subdivision (b)) was added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; and amended by Stats. 1996, Ch. 482.

§ 22816.31. Repealed

(Repealed by Stats. 2004, Ch. 69, effective 6/24/04.)

Note 1: Former Section 22816.31 was incorporated into Section 22814(b).

Note 2: The text of former Section 22816.31 follows:

§ 22816.31. Health Benefit Coverage

Any judge who retires under the Judges' Retirement System II, pursuant to subdivision (b) of Section 75521, and who has not attained the age of 65 years shall be entitled to have his or her coverage and the coverage of any family members continued upon assuming payment of the contributions otherwise required of the employer on account of his or her enrollment. Any election to continue coverage under this section

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shall be made within 60 days of permanent separation. The judge shall also pay an additional 2 percent of the contribution payments required to be paid by the judge to cover the administrative costs incurred by the system in administering the program provided by this section. A retired judge who cancels that coverage may not reenroll. Upon attaining the age of 65 years a retired judge who has participated in this program and has continuous and uninterrupted coverage shall be entitled to the applicable employer contribution.

(Added by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; amended by Stats. 1996, Ch. 482.)

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TITLE 8. THE ORGANIZATION AND GOVERNMENT OF THE COURTS

Chapter 2. The Judicial Council

ARTICLE 2. ASSIGNMENT OF JUDGES

§ 68543.5. Compensation of Retired Judge Assigned to Sit in Court

(a) Whenever a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not a member of the Judges' Retirement System nor the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation shall be paid by the Judicial Council out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

(b) If a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which the retired judge is assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund, as applicable.

(c) During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the California Victim Compensation and Government Claims Board that are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.

(d) Notwithstanding subdivisions (a), (b), and (c) pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

(Added by Stats. 1961, Ch. 681; amended by Stats. 1961, Ch. 1773; by Stats. 1967, Ch. 17; by Stats. 1971, Ch. 1049; by Stats. 1980, Ch. 51; by Stats. 1984, Ch. 1580 and Ch. 1586, operative 7/1/85; by Stats. 1988, Ch. 1310; by Stats.

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1989, Ch. 1389, operative 7/1/90; by Stats. 1990, Ch. 187, effective 6/29/90, operative 7/1/90; by Stats 1991, Ch. 90, effective 6/30/91, Ch. 189, effective 7/29/91, and Ch. 613; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; by Stats. 2002, Ch. 661; and by Stats. 2006, Ch. 538.)

§ 68543.7. Availability and Payment of Retired Judges Sitting on Assignment

Subject to funding in the Budget Act, the Chief Justice shall make available by assignment the equivalent of 50 additional full-time judges. A judge retired under the Judges' Retirement System or the Judges' Retirement System II sitting on assignment in a trial court shall be paid in the amount of 92 percent of 1/250th of the annual salary of a judge of the court to which he or she is assigned for each day of service in the court.

(Added by Stats. 1991, Ch. 90, effective 6/30/91; amended by Stats. 1991, Ch. 189, effective 7/29/91; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94.)

ARTICLE 3. COORDINATED EDUCATIONAL PROGRAMS FOR THE JUDICIARY

§ 68554. Study Leave for Judges

Notwithstanding subdivisions (f) and (g) of Section 1770, the Judicial Council may grant any judge a leave of absence for a period not to exceed one year for the purpose of permitting study which will benefit the administration of justice and the individual's performance of judicial duties, upon a finding that the absence will not work to the detriment of the court. During a study leave, the judge shall receive no compensation, nor shall the period of absence count as service toward retirement, but the time of leave shall not toll the term of office.

(Added by Stats. 1992, Ch. 1199, effective 9/30/92.)

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NOTE: Proposition 140, the Political Reform Act of 1990, required that Senators and Members of the Assembly first elected after November 7, 1990 participate in the Federal Social Security program and in no other retirement system.

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

§ 9350. Title

This chapter may be cited as the Legislators' Retirement Law.
(Added by Stats. 1947, Ch. 879.)

§ 9350.1. Construction

Unless the context otherwise requires, the definitions and general provisions set forth in this article govern the construction of this chapter.
(Added by Stats. 1947, Ch. 879.)

§ 9350.2. "Retirement System"

"Retirement system" or "this system" means the Legislators' Retirement System established by this chapter.
(Added by Stats. 1947, Ch. 879.)

§ 9350.3. "Board of Administration"

"Board of Administration" or "board" means the Board of Administration of the Public Employees' Retirement System.
(Added by Stats. 1947, Ch. 879; amended by Stats. 1969, Ch. 122.)

§ 9350.4. "Retirement Fund"

"Retirement Fund" or "fund" means the Legislators' Retirement Fund established by this chapter.
(Added by Stats. 1947, Ch. 879.)

§ 9350.5. "Member"

"Member" means any person who is a member of this system.
(Added by Stats. 1947, Ch. 879.)

§ 9350.55. "Legislative Statutory Officer"

"Legislative statutory officer" means any of the following officers who has 10 or more years' full-time state service: (a) the Secretary of the Senate, (b) the Chief Clerk of the Assembly, (c) the Sergeant at Arms of the Senate, and (d) the Sergeant at Arms of the Assembly.

(Added by Stats. 1969, Ch. 193.)

§ 9350.56. "State Service"

"State service," within the meaning of Sections 9350.55, 9356.15, and 9356.16 means employment with the Legislature or either house thereof as an officer or employee.

(Added by Stats. 1969, Ch. 193; amended by Stats. 1998, Ch. 1074, effective 9/30/98.)

§ 9350.6. "Compensation"

(a) "Compensation" and "salary" mean the remuneration paid in cash out of funds controlled by the state, excluding mileage, reimbursement for expenses incurred in the performance of official duties, any per diem allowance paid in lieu of those expenses and as limited by Section 9359.05.

(b) Notwithstanding any other provision of this chapter, for purposes of computing a retirement allowance or benefit of a Member of the Legislature, the salary used shall be the highest salary received by the Member of the Legislature while in office.

(c) For purposes of calculating a retirement allowance or benefit pursuant to subdivision (b) of Section 9359.1 for a person who first enters this system on or after January 1, 2008, as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge or a Member of the Senate or Assembly, the compensation or salary used shall be the highest average salary received by the member during any consecutive 12-month period of service.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1973, Ch. 7, effective 3/13/73; by Stats. 1991, Ch. 892, effective 10/12/91; by Stats. 1995, Ch. 829; and by Stats. 2007, Ch. 74.)

§ 9350.7. "Regular Interest"

"Regular interest" means interest at the annual rate fixed by the board, compounded annually, plus such additional interest as the board may credit from year to year.

(Added by Stats. 1947, Ch. 879.)

§ 9350.8. "Contributions"

"Contributions" means contributions made by a member at the rate of contribution prescribed in this chapter and not contributions made by the state unless the context otherwise requires a different construction.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1980, Ch. 1213.)

§ 9350.9. "Accumulated Contributions"

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

(Added by Stats. 1947, Ch. 879.)

§ 9350.10. "Net Earnings"

"Net earnings" means the earnings of the retirement fund less the administrative costs specified in Section 9354 and transfers to the reserve against deficiencies.

(Added by Stats. 1985, Ch. 168.)

§ 9351. "Service"

"Service" means the period of time, computed in years and fractions thereof, a member has held office as a Member of the Senate or of the Assembly or as an elective officer of the state in any office provided for by the Constitution, except that of judge. "Service," with respect to a legislative statutory officer, shall be construed to refer to "state service," as defined in Section 9350.56.

In computing years of service under this act, each full term served as a Member of the Senate shall be deemed to constitute four (4) calendar years, each full term served as a Member of the Assembly shall be deemed to constitute two (2) calendar years, and each period of service from the commencement of one general session of the Legislature to the commencement of the next, prior to the term commencing in 1967, shall be deemed to constitute two (2) calendar years. Commencing in 1967, each period of service from the commencement of one regular session of the Legislature to the commencement of the next shall be deemed to constitute one (1) calendar year. Commencing in 1973, each period of service from the commencement of one regular session of the Legislature to the commencement of the next shall be deemed to constitute two (2) calendar years. Each full term served as an elective officer of the state whose office is provided for by the Constitution shall be deemed to constitute four (4) calendar years.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1949, Ch. 1570; by Stats. 1951, Ch. 1660; by Stats. 1953, Ch. 1892, effective 7/11/53; by Stats. 1968, Ch. 312; by Stats. 1969, Ch. 193; and by Stats. 1973, Ch. 7, effective 3/13/73.)

§ 9351.1. "Retirement"

"Retirement" means withdrawal from membership in this system with a retirement allowance granted under this chapter.

(Added by Stats. 1947, Ch. 879.)

§ 9351.2. "Benefit"

"Benefit" means the retirement or survivor allowance granted under this chapter or payment of accumulated contributions or lump-sum payments with respect to the death of a member.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1980, Ch. 1213.)

§ 9351.3. "Legislator"

"Legislator" means a Member of the Assembly or a Member of the Senate, an elective officer of the state whose office is provided by the Constitution, the Insurance Commissioner, or a legislative statutory officer.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1949, Ch. 1570; by Stats. 1969, Ch. 193; and by Stats. 1993, Ch. 1227.)

§ 9351.4. "Spouse"—Domestic Partnership

All references to "spouse," "surviving spouse," or "marriage" in this chapter apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

(Added by Stats. 2012, Ch. 833.)

ARTICLE 2. ADMINISTRATION

§ 9353. Administration

This system shall be administered by the Board of Administration of the Public Employees' Retirement System. The board shall administer this system in accordance with the provisions of the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in the Legislators' Retirement Law, except for those provisions which provide for the payment of an allowance or other benefit and except for those provisions which conflict with any provision or provisions of the Legislators' Retirement Law. To the extent applicable, the board shall also administer this system in conformance with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to the same extent and with the same effect as if the provisions of the act are contained

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in the Legislators' Retirement Law. If the Board of Administration of the Public Employees' Retirement System determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and this chapter, the provisions of the California Public Employees' Pension Reform Act of 2013 shall control.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1969, Ch. 122; by Stats. 1983, Ch. 909; and by Stats. 2013, Ch. 526.)

§ 9353.1. Rules

The board may make such rules as it deems necessary and proper for the administration of this system.

(Added by Stats. 1947, Ch. 879.)

§ 9353.2. Eligibility for Benefits

The board shall determine who are members of this system and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system.

(Added by Stats. 1947, Ch. 879.)

§ 9353.3. Interest Rate

From time to time the board shall determine the rate of interest being earned on the Legislators' Retirement Fund, and shall credit all contributions of members and retired members with interest at the net earnings rate, compounded at each June 30th.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1985, Ch. 168.)

§ 9353.4. Excess Interest

At the end of each fiscal year the board may credit to all contributions held in the fund at June 30th of the then current fiscal year, such interest in excess of the current rate as it deems proper in the light of the earnings on the fund during that fiscal year, but not more than the difference between such earnings and the interest credited at the current rate to contributions during that year.

(Added by Stats. 1947, Ch. 879.)

§ 9353.5. Information Affecting Status

Each member of this system shall file with the board any information affecting his or her status as a member as the board may require.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

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§ 9353.6. Notice if Change in Status

The Chief Clerk of the Assembly shall give the board immediate written notice of the change in status of any legislative statutory officer elected by the Assembly or Member of the Assembly resulting from induction into office, resignation, expulsion, death, or any other circumstances terminating his or her office as Member of the Assembly, or as a legislative statutory officer, and the Secretary of the Senate shall give the board immediate written notice of any change in status of any Member of the Senate or legislative statutory officer elected by the Senate. The Secretary of State shall give the board immediate written notice of any change in status of any elective state officer who is eligible to membership in the system.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1949, Ch. 1570; by Stats. 1969, Ch. 193; and by Stats. 2002, Ch. 664.)

§ 9353.7. Estimates in Absence of Record

If it is impracticable for the board to determine from the records the length of service, compensation, or age of any member of this system, or if any member refuses or fails to give the board a statement of his or her state service, compensation, or age, the board may estimate the length of service, compensation, or age.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

§ 9353.8. Contribution and Payment Adjustments

If more or less than the correct amount of contribution required of members or the State is paid, proper adjustment shall be made in connection with subsequent payments, or such adjustments may be made by direct cash payments between the member or the State and the board. Adjustments to correct any other errors in payments to or by the board may be made in the same manner.

(Added by Stats. 1947, Ch. 879.)

§ 9354. Legislators' Retirement Fund

The Legislators' Retirement Fund in the State Treasury is hereby established. All moneys received by this system pursuant to this chapter shall be deposited in the fund, and all retirement allowances, benefits, optional settlements, and other obligations or payments payable by this system pursuant to this chapter shall be paid from the fund. Costs of administration shall be paid from annual appropriations from earnings on the fund. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1975, Ch. 655; and by Stats. 1991, Ch. 892, effective 10/12/91.)

§ 9354.1. Administration and Investment

The board has the exclusive control of the administration and investment of the fund, with the same powers and duties, and subject to the same limitations and restrictions, that are applicable to the administration and investment of the Public Employees' Retirement Fund. All of the provisions of the Public Employees' Retirement Law applicable to the administration, investment, and custody of the Public Employees' Retirement Fund are hereby made applicable to the Legislators' Retirement Fund, to the same extent and with the same effect as if the Legislators' Retirement Fund were expressly mentioned therein.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1969, Ch. 122.)

§ 9354.2. Records and Accounts

In addition to other records and accounts, the board shall keep such records and accounts as may be necessary to show at any time:

(a) The total accumulated contributions of members.

(b) The accumulated contributions of the State held on account of members, which shall include the amounts available to meet the obligation of the State on account of benefits granted to retired members.

(Added by Stats. 1947, Ch. 879.)

§ 9354.3. Annual Report

As soon as practicable after the close of each fiscal year, the board shall file with the Governor a report of its work for such fiscal year. Not later than March 15th next following the close of the fiscal year, the board shall transmit a copy of such report to each house of the Legislature and may transmit a copy to every member and beneficiary of the system.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1980, Ch. 1213.)

§ 9354.4. Repealed

(Repealed by Stats. 1983, Ch. 509.)

§ 9354.5. Actuarial Valuation

The board shall keep in convenient form such data as is necessary for the actuarial valuation of this system. As of June 30, 1973, and thereafter at the ends of periods not to exceed four years, it shall cause to be made an actuarial investigation into the mortality, service and compensation experience of members and persons receiving benefits and an actuarial valuation of the assets and liabilities of this system. From time to time it shall determine the rate of interest being earned on the Legislators' Retirement Fund.

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The board shall cause to be published, as of the date of the investigation and valuation, a financial statement showing an actuarial valuation of the assets and liabilities of this system and a statement as to the accumulated cash and securities in the Legislators' Retirement Fund as certified by the Controller.

The board shall include recommendations for financing the system in the financial statement.

(Added by Stats. 1972, Ch. 1192.)

§ 9354.6. Actuarial Assumptions

When there is insufficient data upon which to establish mortality rates or other actuarial assumptions required to evaluate the obligations of the system, the board may adopt appropriate assumptions which are necessary, upon the advice and recommendation of the actuary.

All computations, payments, and other acts previously made or done by the board or its officers and employees which would be valid if this section had been in effect at the time the computations, payments, or other acts were made or done are hereby ratified, confirmed, and validated.

(Added by Stats. 1981, Ch. 388.)

§ 9354.7. Unclaimed Benefits

(a) Whenever a person entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) Whenever the amount of a benefit payable by this system cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the accumulated contributions of the member on whose account the benefit is payable shall be administered in accordance with subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the retirement fund and held for the claimant without further accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become part of the fund. Transfer to the fund shall be made as of the June 30th next following the expiration of the four-year period.

The board may at any time after transfer of proceeds to the fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

(Added by Stats. 1983, Ch. 773.)

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ARTICLE 3. MEMBERSHIP

§ 9355. Election to Become Member

Any Member of the Senate or Assembly may file with the board at any time during incumbency in that office, a written election to become a member of this system. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1948, Ch. 10, effective 4/7/48; by Stats. 1951, Ch. 1660; by Stats. 1953, Ch. 284; by Stats. 1955, Ch. 891; by Stats. 1957, Ch. 1434; and by Stats. 2002, Ch. 664.)

§ 9355.05. Repealed

(Repealed by Stats. 1957, Ch. 1434.)

§ 9355.1. Termination of Membership

A person ceases to be a member of this system:

(a) Upon retirement pursuant to this chapter.

(b) Upon death.

(c) Except as provided in Section 9355.2 or while absent on military service, on the 31st day after he or she ceases to be a legislator.

(d) Upon resignation from membership in this system.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1951, Ch. 384, effective 5/9/51, and Ch. 1660; and by Stats. 2002, Ch. 664.)

§ 9355.16. Criminal Charges

Any member of this system who is charged, by indictment, with the commission of any felony involving the accepting or giving, or offering to accept or give, any bribe, the embezzlement of public money, extortion, theft of public funds, perjury, or conspiracy to commit any of these crimes, arising directly out of his or her official duties, and who is a fugitive from justice, shall be suspended from membership in this system while the charge is pending and until final disposition of the charge. At any time during the period of suspension of membership, the person so suspended shall be entitled to withdraw his or her accumulated contributions from the system, and any withdrawal shall constitute an election to terminate membership in the system.

This section applies only to persons who are charged with the commission after the effective date of this section of a felony described in this section by an indictment filed after the effective date of this section.

(Added by Stats. 1959, Ch. 2161; amended by Stats. 2002, Ch. 664.)

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§ 9355.2. Continuance After Legislative Term

Notwithstanding any other provision of this chapter, if the service of a member is discontinued by any means other than death or retirement pursuant to this chapter, he or she shall have the right to elect not later than 90 days after the date upon which notice of that right is mailed by this system by registered mail to the member's latest address on file in the office of this system, and without right of revocation, whether to allow his or her accumulated contributions to remain in the fund. Failure to make that election shall be deemed an irrevocable election to resign from this system and withdraw his or her accumulated contributions. A member whose membership continues under this section is subject to the same age requirements as apply to other members for retirement, and upon qualification for retirement by age, he or she shall, upon his or her application therefor to the board, be retired, and receive a retirement allowance based upon the service with which he or she is credited, in the same manner as other members of this system.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1953, Ch. 1892, effective 7/11/53; and by Stats. 2002, Ch. 664.)

§ 9355.25. Repealed

(Repealed by Stats. 1980, Ch. 1213.)

§ 9355.3. Resignation from System

Any member may resign from this system at any time prior to retirement, by written resignation filed with the Board of Administration.

(Added by Stats. 1947, Ch. 879.)

§ 9355.4. Elective Officers

(a) Every elective officer of the state whose office is provided for by the California Constitution, except judges, may become a member of this system. Except for judges, every elective officer in office at the time this section becomes effective may, within 90 days after the effective date, file with the board a written election to become a member of this system. Except for judges, every elective officer elected after the effective date of this section may file an election within 90 days after the commencement of the first term of office for which he or she is elected. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

(b) This section shall not apply to any person who first becomes an elective officer of the state on or after January 1, 2013.

(Added by Stats. 1949, Ch. 1570; amended Stats. 2002, Ch. 664; amended by Stats. 2012, Ch. 296.)

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§ 9355.41. Insurance Commissioner

(a) The Insurance Commissioner may become a member of this system as provided in this section. An Insurance Commissioner who is elected after January 1, 1994, may file an election within 90 days after the commencement of the term of office for which he or she is elected. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

(b) This section shall not apply to an Insurance Commissioner who is first elected on or after January 1, 2013.

(Added by Stats. 1993, Ch. 1227; amended by Stats. 2012, Ch. 296.)

§ 9355.45. Legislative Statutory Officers

(a) Every legislative statutory officer may become a member of this system. Every such officer in office at the time this section becomes effective may, within 90 days after the effective date, file with the board a written election to become a member of this system. Every such officer, elected after the effective date of this section, may file an election within 90 days after the commencement of the first term of office for which he or she is elected after attaining status as a legislative statutory officer. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

(b) This section shall not apply to any person who first becomes a legislative statutory officer on or after January 1, 2013.

(Added by Stats. 1969, Ch. 193; amended by Stats. 2002, Ch. 664; amended by Stats. 2012, Ch. 296.)

§ 9355.5. Membership Exclusive

Membership in this system is exclusive of membership in any other retirement system for state officers and employees. Upon becoming a member of this system, a member ceases to be a member of any other retirement system for state officers and employees of which he or she has been a member. The member is entitled to credit for service rendered prior to membership in this system pursuant to Section 9356.1, but is not entitled to that credit and credit for the same service in any other system.

(Added by Stats. 1949, Ch. 1570; amended by Stats. 2002, Ch. 664.)

§ 9355.6. Absence for Military Service

A member is absent on military service while serving with the armed forces of the United States, either during a war as defined in Section 18 of the Military and Veterans Code, or in any other national emergency or in time of peace if he is drafted for such service by the United States Government, and for six months thereafter.

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(Added by Stats. 1951, Ch. 384, effective 5/9/51.)

§ 9355.7. Election or Appointment to Other Public Office

Any member who, while serving a term of office as a Member of the Senate or Assembly, is elected or appointed to another public office and resigns his or her office as Member of the Senate or Assembly shall be credited with a period of service equal to the remainder of his or her term as Member of the Senate or Assembly if he or she makes contributions therefor to the Legislators' Retirement Fund. Those contributions shall be in an amount equal to that which he or she would have made if he or she had served as a Member of the Senate or Assembly during the remainder of his or her term and had received the salary that he or she was receiving on the effective date of such resignation.

(Added by Stats. 1961, Ch. 1897; amended by Stats. 1973, Ch. 7, effective 3/13/1973; by Stats. 1980, Ch. 1213; and by Stats. 2002, Ch. 664.)

§ 9355.8. "Public Office"

For purposes of Section 9355.7, "public office" includes, but is not limited to, positions within the federal government that require appointment by the President of the United States or his or her delegate or a member of the President's Cabinet or his or her delegate, if the person so appointed is thereafter again elected as a Member of the Senate or Assembly.

This section shall have retroactive application, as well as prospective application, but this section shall not deprive a member of credit for any service credited to him or her on the effective date of this section.

(Added by Stats. 1967, Ch. 1716; amended by Stats. 2002, Ch. 664.)

ARTICLE 4. SERVICE

§ 9356. Credit for Service

Each member of this system shall receive credit for service for time during which he or she holds office as a legislator after becoming a member of this system.

A member may also receive credit for time during which he or she held office as a legislator prior to becoming a member, provided he or she makes contributions therefor to the Legislators' Retirement Fund, as provided in Section 9357.2.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1963, Ch. 1324; and by Stats. 2002, Ch. 664.)

§ 9356.1. Credit for Prior Service

Each member who rendered service prior to the date this chapter becomes operative shall receive credit therefor if he or she makes contributions therefor to the Legislators' Retirement Fund, as provided in Section 9357.2. No member shall receive credit for any service for which he or she has not contributed as required by this chapter.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

§ 9356.15. Credit for Prior Service: Legislative Statutory Officers

Any person who is a member of the system pursuant to Section 9355.45 may also receive credit for state service prior to the date he or she became a member, whether that service was rendered before or after the operative date of this section, provided that he or she makes the contributions required by Section 9357.2, but at the rate of 6½ percent. If he or she elects to make a contribution with respect to service credited under the Public Employees' Retirement System, he or she shall receive a refund of his or her accumulated contributions in that system with respect to all of his or her state service.

The contribution rate for a person who first commences service in any of the offices listed in Section 9350.55 or who becomes a member of this system on or after January 1, 1982, shall be 8 percent.

(Added by Stats. 1969, Ch. 193; amended by Stats. 1981, Ch. 549, effective 9/19/81; and by Stats. 2002, Ch. 664.)

§ 9356.16. Credit for Prior Service: Legislative Staff

Any person who is a member of the system may also receive credit for state service prior to the date he or she became a member, whether the service was rendered before or after the operative date of this section, provided that he or she makes the contributions required by Section 9357.2, but at the rate of 6½ percent. If he or she elects to make these contribution with respect to service credited under the Public Employees' Retirement System, his or her accumulated contributions, including accrued interest, under that system shall be transferred to his or her account under this system. Contributions transferred from the Public Employees' Retirement System shall reduce the contributions otherwise required by this section.

The contribution rate for a person who first commences service and who becomes a member of this system on or after January 1, 1982, shall be 8 percent.

(Added by Stats. 1998, Ch. 1074, effective 9/30/98.)

§ 9356.2. Credit for Military Service Leave

Each member shall receive credit for service while absent on military service, provided he or she is a member at the time the absence commences or, in the case

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of military service prior to the effective date of this section, provided he or she was a legislator at the time the absence commenced. Contributions required for credit under this section shall be computed only upon compensation paid, if any, for the period of the absence on military service.

(Added by Stats. 1951, Ch. 384, effective 5/9/51; amended by Stats. 2002, Ch. 664.)

§ 9356.21. Credit for Prior Service: Military Service

Each member or former member who has 10 years of credited service in this system shall receive credit for active service of not less than one year in the armed forces of the United States, or continuous active service of not less than one year in the Merchant Marine of the United States prior to January 1, 1950, which service was rendered prior to assuming for the first time a state office for which membership in the system was elective and terminated with a discharge under other than dishonorable conditions; provided, however, that the credit to be given for that service shall be on the basis of one year of credit for each five years of credited service in this system, but shall not exceed a total of four years regardless of the number of years of either that service or subsequent service in this system. However, any member or retired former member electing to receive a credit for such military service shall contribute in lump sum or by installments over such period and subject to such minimum payments as may be prescribed by regulations of the board, at the member's contribution rate at the time of election or the retired person's contribution rate at retirement applied, respectively, to the average annual compensation of the member over the three years immediately preceding the election or the average annual compensation of the retired person over the three years immediately preceding retirement.

Military service credit shall not be granted for any military service to which any of the following apply:

(a) In any period for which credit is otherwise given under Section 9356.2.

(b) For which service credit was received under any other retirement system.

(c) To the extent that total credit under this section would exceed four years.

An election by a member with respect to military service under this section may be made only while the member is in this system.

Any resulting increase in the allowance of a retired former member shall be applied prospectively only.

(Added by Stats. 1984, Ch. 1759, effective 10/1/1984; amended by Stats. 1985, Ch. 914, effective 9/24/85, and Ch. 1067, effective 9/27/85; and by Stats. 1988, Ch. 477.)

§ 9356.3. Credit for Unexpired Term of Office

This section applies to any member heretofore or hereafter elected to fill an unexpired term of office as Member of the Legislature, and who is a Member of

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the Legislature on the effective date of this section as amended at the 1961 General Session or who becomes a Member of the Legislature after that date.

(a) If the member is elected as a Member of the Legislature at a special election held prior to June 15 of any calendar year, the period of service of the member during the remainder of that calendar year shall constitute one calendar year of service for the purpose of computing service under this act if he or she makes contributions therefor to the Legislators' Retirement Fund. Those contributions shall be in an amount equal to that which he or she would have made if he or she had served as a legislator during the period of the calendar year prior to his or her election.

(b) If the time of service of a member elected to fill an unexpired term of office as Member of the Legislature amounts to more than one-half of the full term for that office, he or she shall receive credit for service for the full term of office if he or she makes contributions therefor to the Legislators' Retirement Fund. Those contributions shall be in an amount equal to that which he or she would have made if he or she had served as a legislator during the remainder of the term.

(Added by Stats. 1959, Ch. 2179; amended by Stats. 1961, Ch. 814; by Stats. 1973, Ch. 7, effective 3/13/73; and by Stats. 2002, Ch. 664.)

§ 9356.5. Transfer of Service to Judges' Retirement System

Any member whose service is discontinued but whose membership is continued under Section 9355.2 and who becomes a member of the Judges' Retirement System or is entitled to benefits under the Judges' Retirement Law, may elect to transfer all or part of the service for which he or she is credited under this system to the Judges' Retirement System pursuant to Section 75030.5. The election may be made at any time prior to retirement by written notice to the board of administration. The member shall designate in the notice the dates of the service that he or she elects to transfer. Upon receipt of the notice by the board of administration, the member's accumulated contributions on account of the period of service transferred, and the interest thereon, shall be transferred to the Judges' Retirement Fund.

If the member elects to transfer all of the service for which he or she is credited in this system, his or her membership in this system is terminated. If he or she elects to transfer less than all of the service for which the member is credited in this system, his or her membership is continued under Section 9355.2 and the service with which he or she is credited in this system is reduced by the amount so transferred.

Any member whose service is discontinued but whose membership is continued under Section 9355.2 who is entitled to receive credit under this system by making an election to do so and making a contribution to this system for the service, but who has not made the election, may, after becoming a member of the Judges' Retirement System, elect to receive credit for all or part of that service in

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the Judges' Retirement System pursuant to Section 75030.5. Upon making the election, the member may not thereafter elect to be credited in this system with the service so transferred.

This section does not apply to any person who, on or after January 1, 1986, first becomes or continues as a legislator, as defined in Section 9351.3, in a term of office that commences on or after January 1, 1986.

(Added by Stats. 1968, Ch. 909; amended by Stats. 1980, Ch. 1213; by Stats. 1985, Ch. 1359; and by Stats. 2002, Ch. 664.)

§ 9356.6. Repealed

(Repealed by Stats. 1973, Ch. 7, effective 3/13/73.)

§ 9356.7. Repealed

(Repealed by Stats. 1974, 2d Ex Sess, Ch. 1, effective 10/7/74.)

ARTICLE 5. CONTRIBUTIONS

§ 9357. Percentage Contribution: Legislators

For each year of service rendered after the date this chapter becomes operative, each legislator who is a member of this system shall contribute 4 percent of his or her compensation as a legislator unless he or she is subject to other contribution provisions of this chapter. Those contributions shall be paid as provided in Section 9357.1.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1969, Ch. 193; by Stats. 1973, Ch. 7, effective 3/13/73; and by Stats. 2002, Ch. 664.)

§ 9357.01. Percentage Contribution: First Elected after 1/1/72

Notwithstanding the provisions of Section 9357 or 9357.05, the rate of contribution for a member of the system first elected after the date this section becomes operative shall be 8 percent.

(Added by Stats. 1971, Ch. 1820.)

§ 9357.05. Percentage Contribution: Legislative Statutory Officers

Each person who is a member of the system pursuant to Section 9355.45 shall contribute 6½ percent of his or her compensation for each year of service rendered as a member of the system. Those contributions shall be paid as provided in Section 9357.15.

(Added by Stats. 1969, Ch. 193; amended by Stats. 2002, Ch. 664.)

§ 9357.1. Deductions by the State: Legislators

Immediately upon receipt of the written election of a legislator to become a member of this system, the board of administration shall certify to the State Controller the name of that member. The Controller shall deduct from each warrant drawn in payment of compensation to the member the amount of contribution at the rate prescribed by the provisions of this chapter with respect to his or her service as a member of this system, and shall remit that amount to the board of administration, to be deposited in the Legislators' Retirement Fund.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1969, Ch. 193; by Stats. 1973, Ch. 7, effective 3/13/73; and by Stats. 2002, Ch. 664.)

§ 9357.15. Deductions by the State: Legislative Statutory Officers

With respect to each person who is a member of the system pursuant to Section 9355.45, the Controller shall deduct 6½ percent from each warrant drawn in payment of compensation to such member, and 8 percent from each warrant drawn in payment of compensation to such members first elected after March 4, 1972, and shall remit such amount to the board of administration, to be deposited in the Legislators' Retirement Fund.

(Added by Stats. 1969, Ch. 193; amended by Stats. 1980, Ch. 1213.)

§ 9357.2. Contributions for Prior Service

Any member who rendered service prior to the date he or she became a member may elect, at any time prior to retirement, to contribute to the Legislators' Retirement Fund for each year or fraction thereof for which he or she desires to receive credit for service, a percentage of the compensation received by him or her in respect to that service at the rate prescribed by the provisions of this chapter with respect to his or her service as a member of this system.

Those contributions may be paid by lump sum payment or by installment payments over a period not in excess of the length of time for which the member has elected to receive credit for the prior service, at times and in a manner fixed by the board. No member shall receive credit for any service for which he or she has not contributed as required by this chapter.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1949, Ch. 3, effective 1/27/49; by Stats. 1955, Ch. 891; by Stats. 1959, Ch. 597; by Stats. 1969, Ch. 193; by Stats. 1973, Ch. 7, effective 3/13/73; and by Stats. 2002, Ch. 664.)

§ 9357.3. Payment upon Membership Termination

If the membership of a member is terminated, except by death or retirement pursuant to this chapter, he or she shall be paid forthwith all of his or her accumulated contributions .

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(Added by Stats. 1947, Ch. 879; amended by Stats. 1994, Ch. 576, effective 9/15/94; and by Stats. 1999, Ch. 307.)

§ 9357.4. Redeposit of Contributions

A member may redeposit in the Legislators' Retirement Fund, in one sum or in not to exceed 12 monthly or 24 semimonthly payments, an amount equal to any accumulated contributions that have been repaid to him or her pursuant to Section 9357.3, subject to minimum payments fixed by the board, and if he or she makes a redeposit, he or she shall receive credit for all service with which he or she was credited at the time of the repayment.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1982, Ch. 432; and by Stats. 2002, Ch. 664.)

§ 9357.45. Redeposit of Contributions: Former Member

Notwithstanding any other provisions of this chapter, a person who was a member and entitled to be credited with 10 or more years of service as a Member of the Senate or Assembly and who withdrew his or her accumulated contributions prior to October 1, 1961, and after discontinuance of service, may, at any time before December 31, 1965, redeposit in the fund in one sum an amount equal to the accumulated contributions withdrawn plus the interest that would have been credited to those accumulated contributions had they not been withdrawn, using the rate of interest in effect at the time of redeposit.

Upon the redeposit the person shall become a member with the rights provided under this chapter to a member who elected under Section 9355.2 to allow his or her contributions to remain in the fund.

(Added by Stats. 1965, Ch. 2038; amended by Stats. 2002, Ch. 664.)

§ 9357.46. Redeposit of Contributions: PERS or STRS Members

Any person who was a member and who withdrew his or her accumulated contributions after discontinuance of service may, at any time while he or she is in employment in which he or she is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, redeposit into the fund in one sum an amount equal to the accumulated contributions withdrawn plus the interest that would have been credited to those accumulated contributions had they not been withdrawn, using the rate of interest in effect at the time of redeposit.

Upon the redeposit, the person shall become a member with the rights provided a member who elected under Section 9355.2 to allow his or her contributions to remain in the fund.

(Added by Stats. 1969, Ch. 1549; amended by Stats. 2002, Ch. 664.)

§ 9357.47. Repealed

(Repealed by Stats. 1980, Ch. 1213.)

§ 9357.5. Re-entry Without Redeposit

Upon reentering this system after a termination of his or her membership, if a member does not elect to make, or having so elected, does not make, a redeposit, he or she reenters as a new member, without credit for any service.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

§ 9357.6. Repealed

(Repealed by Stats. 1980, Ch. 1213.)

§ 9358. State Contributions

(a) On and after January 1, 2000, the state's contribution on account of liability for benefits under this chapter shall be established in accordance with Section 20814.

(b) When the actuarial value of assets exceeds the present value of benefits as of the most recently completed valuation, resulting in a 0 percent contribution rate for the state, as determined by the board, the board may reduce the member contribution rates described in Sections 9357, 9357.01, 9357.05, and 9357.15 for the same fiscal year in which the state rate is reduced to 0 percent.

However, for any fiscal year during which the state's contribution rate is greater than 0 percent, the members of the system shall pay the applicable member contribution rates described in Sections 9357, 9357.01, 9357.05, and 9357.15.

(Added by Stats. 1977, Ch. 937; amended by Stats. 1999, Ch. 897.)

§ 9358.01. Employer "Pick-up" of Contributions

Notwithstanding any other provision of law, the state may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be paid by a member. The payment shall be reported as employer-paid contributions and shall be credited to member accounts.

Nothing in this section shall be construed to limit the authority of the state to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by the member, as authorized by this section.

(Added by Stats. 1985, Ch. 524, effective 9/9/85.)

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§ 9358.1. Annual Report: Contribution Rate

The board shall report annually to the Joint Rules Committee the rate of contributions which, if paid by the state pursuant to Section 9358, would fully amortize the unfunded actuarial obligation of this system over a period of not to exceed 40 years.

(Added by Stats. 1987, Ch. 271.)

§ 9358.5. Repealed

(Repealed by Stats. 1977, Ch. 937.)

ARTICLE 6. BENEFITS

§ 9359. Qualification for Benefits

Upon his or her written application to the Board of Administration, (a) a member of this system who was a member on the effective date of this amendment who has attained 60 years of age, (b) a member who hereafter becomes a member of this system who has attained 60 years of age and who is credited with 4 or more years of service, or (c) a member, regardless of age, who is credited with 20 or more years of service, shall be retired, and thereafter shall receive for life the retirement allowance provided in this chapter.

A written application for retirement may be filed at any time during the term of office of the member, or within 30 days after the expiration of his or her term of office. An application that does not specify a different date as the effective date of retirement applied for shall be deemed to be an application for retirement as of the day following the expiration of the term of office of the member.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1949, Ch. 1570; by Stats. 1951, Ch. 1660; by Stats. 1961, Ch. 1897; Stats. 1982, Ch. 432; and by Stats. 2007, Ch. 130.)

§ 9359.01. Benefit Limitations

(a) Notwithstanding any other provision of this part, the benefits payable to any person who becomes a member for the first time on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code.

(b) Notwithstanding any other law, the benefits payable to any person who became a member prior to January 1, 1990, shall be subject to the greater of the following limitations as provided in Section 415(b)(10) of the Internal Revenue Code:

(1) The limitations set forth in Section 415 of the Internal Revenue Code.

(2) The accrued benefit of a member under this system (determined without regard to any amendment to the system made after October 14, 1987).

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(Added by Stats. 1989, Ch. 1305, effective 10/1/89; amended by Stats. 1999, Ch. 83.)

§ 9359.02. Internal Revenue Code: Limitation on Benefits

(a) The amount of compensation used to compute benefits payable to any person who becomes a member of this system on or after July 1, 1996, may not exceed the limitations upon public retirement systems set forth in Section 401(a)(17) of Title 26 of the United States Code, 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 the cost of living.

(b) 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. 2003, Ch. 10, effective 5/14/2003.)

§ 9359.03. Legislative Statutory Officer Holding More Than One Office

If a person qualifies to retire as a legislative statutory officer, and has held more than one of the offices enumerated in Section 9350.55, his benefits payable under this chapter shall be computed on the basis of the office having the higher salary.

(Added by Stats. 1969, Ch. 193.)

§ 9359.04. Repealed

(Repealed by Stats. 1974, 2d Ex Sess, Ch. 1, effective 10/7/74.)

§ 9359.05. Compensation Considered in Computing Benefits: Members Joining System On or After July 1, 1996

The amount of compensation that is taken into account in computing benefits payable to any person who first becomes a member of this system on or after July 1, 1996, shall not exceed the limitations in Section 401(a)(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.)

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§ 9359.1. Calculation of Retirement Benefit

(a) The retirement allowance for a member all of whose credited service was rendered as a Member of the Senate or Assembly, except as provided in subdivision (d), is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed 15 years. In no event shall any retirement allowance payable under this chapter to a member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of a member who is credited with more than 15 years shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years.

(b) The retirement allowance for a member all of whose credited service was rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge or a Member of the Senate or Assembly is the sum of (1) an annual amount equal to 5 percent of the highest compensation received by the officer while serving in that office, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed 8 years, plus, if the member is credited with 24 or more years of service, (2) 12/3 percent of the compensation to which the 5-percent rate is applicable under subparagraph (1) for his or her first 8 years of credited service, multiplied by the number of years of service in excess of 8 years with which the member is credited at the time of his or her retirement, not to exceed 12 years of credited service in excess of the 8 years of service referred to in subparagraph (1).

(c) The retirement allowance for a member part of whose credited service was rendered as a Member of the Senate or Assembly and part of whose credited service was rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution, other than a judge or a Member of the Senate or Assembly, is the sum of (1) an annual amount equal to 5 percent of all the compensation, at the time payment of the allowance falls due, to the officer holding the highest salaried office that the member held at any time during his or her service prior to retirement, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed 8 years, plus, if the member is credited with 24 or more years of service, (2) 12/3 percent of the compensation to which the 5-percent rate is applicable under subparagraph (1) for his or her first 8 years of credited service, multiplied by the number of years of service rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution, other than a judge or a Member of the Senate or Assembly, with which the

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member is credited at the time of his or her retirement, not to exceed 12 years of that credited service in excess of the 8 years referred to in subparagraph (1). If, however, the member would be entitled to receive a greater allowance under subdivision (a), (b), or (d) if all of his or her credited service had been rendered as a Member of the Senate or Assembly or as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge or a Member of the Senate or Assembly, then all of his or her credited service shall be deemed to have been rendered as a Member of the Senate or Assembly or as an elective officer, and he or she shall receive a retirement allowance computed under subdivision (a), (b), or (d), whichever is greater.

(d) The retirement allowance for a member, all of whose service was rendered as a Member of the Senate or Assembly, who is the surviving spouse of a deceased Member of the Senate or Assembly and who becomes the immediate successor in office of a deceased Member of the Senate or Assembly is an annual amount equal to 5 percent of the compensation payable, at the time the payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of retirement plus the number of years of service as a Member of the Senate or Assembly rendered by the member's deceased spouse plus any period in the term, for which the deceased member was elected, following his or her death, not to exceed 15 years. In no event shall any retirement allowance payable under this chapter to a member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of a member, whose total service creditable under this subdivision is in excess of 15 years, shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years. This same computation of total service creditable shall be used as a basis in determining eligibility for retirement, under Sections 9359 and 9359.16, of a member described in this subdivision. A member to whom this subdivision applies shall redeposit an amount equal to the contributions that were required to be contributed by his or her deceased spouse while he or she was a member of the system for his or her service, computed on the basis of the salary and rate of contribution in effect at the time service was rendered, or would have been rendered, in the Legislators' Retirement Fund on account of the service of his or her deceased spouse in order to use that service for the purposes of this section and Sections 9359 and 9359.16.

The amendments to this section enacted at the 1969 Regular Session shall apply with respect to a member who retired or retires, or died or dies while eligible to retire on or after May 1, 1969, and any allowance payable with respect to that member who retired or died prior to the effective date of that amendment, shall be adjusted effective from the date of retirement or death to the amount it would have been had the amendment been in effect on that date.

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Sections 9359.11 and 9359.12 shall control over any conflicting provisions of this section.

The amendments to this section during the 1973-74 Second Extraordinary Session shall not be applicable to members who are retired on the effective date of the amendments.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1949, Ch. 1570; by Stats. 1951, Ch. 1660; by Stats. 1957, Ch. 1212; by Stats. 1959, Ch. 766; by Stats. 1961, Ch. 1897; by Stats. 1963, Ch. 2103 and Ch. 2174; by Stats. 1965, Ch. 688; by Stats. 1969, Ch. 776, effective 8/14/69; by Stats. 1974, 2d Ex Sess, Ch. 5, effective 10/7/74; by Stats. 1976, Ch. 1436; by Stats. 1982, Ch. 432; by Stats. 1993, Ch. 1227; and by Stats. 2007, Ch. 130.)

§ 9359.10. Benefit Calculation: Legislative Statutory Officer

The retirement allowance for a legislative statutory officer is an annual amount equal to 3 percent of the compensation payable to the officer at the time the officer vacates that legislative statutory office, or payable to the incumbent of that legislative statutory office at the time payments of the allowance fall due, whichever is higher, multiplied by the number of years of service with which the legislative statutory officer is entitled to be credited at the time of the officer's retirement. In no event shall the allowance payable under this section exceed two-thirds of the compensation payable to the legislative statutory officer at the time the officer vacates that legislative statutory office, or two-thirds of the compensation payable to the incumbent of that legislative statutory office at the time payments of the allowance fall due, whichever is the higher; provided, however, the allowance shall be further adjusted to reflect cost-of-living increases occurring after the retirement of the legislative statutory officer as determined under Section 9360.10 without respect to the limitations set forth in this section.

If a legislative statutory officer is entitled to a retirement allowance under any other state administered public retirement system, and the officer's total retirement allowances under both systems exceed the maximum allowance to which the officer would be entitled under this section with 20 years service in that legislative statutory office, the allowance payable under this section shall be reduced to the amount that it, combined with the retirement allowance to which the officer is entitled under the other system, does not exceed the maximum allowance to which the officer would be entitled under this section with $22^1/_3$ years service in that legislative statutory office.

The retirement allowance for a person who first commences service in any of the offices listed in Section 9350.55 or who becomes a member of this system on or after January 1, 1982, shall be based on compensation payable to that officer at retirement. In no event shall the allowance be based on a compensation greater than the compensation the member received for such service.

(Added by Stats. 1969, Ch. 193; amended by Stats. 1980, Ch. 1213; and by Stats. 1981, Ch. 549, effective 9/19/81.)

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§ 9359.11. Benefit Calculation: Legislators Serving Prior to 1967

Any contrary provisions of Section 9359.1 notwithstanding, in computing the retirement allowance of a legislator member of the Legislators' Retirement System whose service as a legislator ended prior to the term commencing in 1967, the salary to which the applicable formula shall be applied shall be five hundred dollars ($500) per month, and any increase in salary of legislators above such amount shall be disregarded for such purpose.

(Added by Stats. 1966, 1st Ex Sess, Ch. 163, operative 1/2/67.)

NOTE: Stats. 1996 (1st Ex. Sess.), Ch. 163 also contained the following provision:

SEC. 6. This act shall become operative only in the event that Assembly Constitutional Amendment No. 13 of the 1966 First Extraordinary Session is adopted by the people, in which case this act shall become operative at the time the 1967 Regular Session of the Legislature is convened except that Section 8900 of the Government Code as added by this act shall become operative at the same time as Assembly Constitutional Amendment No. 13. Upon becoming operative, the provisions of this act shall supercede any conflicting provisions of any other laws.

§ 9359.12. Benefit Calculation: Legislators Serving During or After 1967

(a) Any contrary provisions of Section 9359.1 or Section 9360.9 notwithstanding, and subject to the further limitations in subdivision (b), the retirement allowance of any member of the Legislators' Retirement System who serves as a legislator during or after the term commencing in 1967 shall be the sum of: (1) the amount determined by application of the formula provided by Section 9359.1 to the first five hundred dollars ($500) per month of salary payable to the legislator at the time of his or her retirement, plus (2) an amount equal to 3 percent of the amount of such salary in excess of five hundred dollars ($500) per month multiplied by the number of years credited the member, or two-thirds of the amount of such salary payable to the legislator at the time of his or her retirement, whichever is the lesser, plus, in the case of members credited with service prior to the term commencing in 1967, an amount equal to a cost-of-living increase computed under Section 9360.9 as of January 1, 1967, on that portion of the allowance based on five hundred dollars ($500) per month, and said total to be further adjusted to reflect cost-of-living increases occurring after the member's retirement as determined under Section 9360.10.

(b) Except as provided in subdivision (c), during such time as he or she serves in any salaried public office any retired member of the Legislators' Retirement System who served as a legislator during or after the term commencing in 1967 shall receive a retirement allowance computed by application of the formula set forth in Section 9359.1 to a salary of five hundred dollars ($500), and any increase in salary above such amount shall, for such purpose, be disregarded.

(c) If a retired member who is otherwise subject to subdivision (b) is, while serving as a member of a public board or commission, entitled to receive for that

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service per diem compensation and expenses or compensation and expenses, he or she may, notwithstanding any other provision of the law, waive the compensation. If the compensation is waived, the member shall not be subject to subdivision (b). Nothing in this section shall be construed as requiring the waiver of expenses or per diem compensation which is in lieu of expenses.

(Added by Stats. 1966, 1st Ex Sess, Ch. 163, operative 1/2/67; amended by Stats. 1982, Ch. 432; and by Stats. 1985, Ch. 753, effective 9/18/85.)

§ 9359.13. Benefit Calculation: Constitutional Elective Officer

Notwithstanding any contrary provision of Section 9359.1, the retirement allowance of a member who is an elective officer of the state whose office is provided for by the Constitution, other than a judge or a Member of the Senate or Assembly, first elected to any such office after the effective date of this section and any allowance payable to a survivor of such member on death before or after retirement shall not be based on compensation in excess of the highest compensation received by the member as an incumbent of such office. Allowances payable to such members or survivors shall be adjusted under Section 9360.10 rather than 9360.9.

(Added by Stats. 1971, Ch. 1277.)

§ 9359.15. Benefits Discontinued Upon Reinstatement

Notwithstanding any other provision of this chapter, no retirement allowance or optional settlement in lieu thereof under this chapter shall be paid to or in respect to any person for time during which he or she holds office as a legislator. If a retired legislator reenters this system after his or her retirement, his or her retirement allowance or optional settlement in lieu thereof shall be discontinued, and his or her individual account shall be credited with the amount of his or her accumulated contributions at the time of his or her retirement, and he or she shall be entitled to receive credit for service prior to his or her retirement in the same manner as if he or she had never been retired.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

§ 9359.16. Retirement: Before Age 60 With Less Than 20 Years Service

Notwithstanding the provisions of Section 9359, a member of this system, other than a legislative statutory officer, who is under age 60 and who is credited with 15 or more, but less than 20 years of service shall be retired upon his or her written application therefor to the Board of Administration, and thereafter shall receive for life the retirement allowance provided by this section. The allowance shall be equal to the retirement allowance that he or she would receive for that service upon retirement at age 60 reduced by 2 percent for each year by which the member's age at the time of retirement is below age 60.

(Added by Stats. 1961, Ch. 1897; amended by Stats. 1971, Ch. 1277; by Stats. 1982, Ch. 432; and by Stats. 2002, Ch. 664.)

§ 9359.17. Retirement: Legislative Statutory Officer Attaining Age 55

Notwithstanding the provisions of Section 9359, a legislative statutory officer who has attained the age of 55 shall be retired upon his or her written application therefor to the Board of Administration, and shall thereafter receive for life the retirement allowance provided by Section 9359.10.

(Added by Stats. 1969, Ch. 193; amended by Stats. 2002, Ch. 664.)

§ 9359.18. Repealed

(Repealed by Stats. 1980, Ch. 1213.)

§ 9359.2. Monthly Payments

A retirement allowance granted by this chapter is payable in equal monthly installments but a smaller pro rata amount may be paid for part of a month when the period of payment begins after the first or ends before the last day of the month.

(Added by Stats. 1947, Ch. 879.)

§ 9359.3. Right to Benefit

The right of a person to any benefit or other right under this chapter and the money in the Legislators' Retirement Fund are not subject to execution or any other process whatsoever except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this chapter.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1982, Ch. 497, operative 7/1/83.)

§ 9359.4. Beneficiary Designation

A member may at any time designate a beneficiary to receive those benefits as may be payable to his or her beneficiary or estate under this chapter, by a writing filed with the board. To be eligible to be so designated a person shall have an insurable interest in the life of the member.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

§ 9359.5. Change of Beneficiary

The designation of a beneficiary under this system, other than designations under Optional Settlements 2, 3 and 4, may be revoked at the pleasure of the

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person who made it and a different beneficiary designated by a writing filed with the board.

(Added by Stats. 1947, Ch. 879.)

§ 9359.6. Beneficiary Designation: Effect of Termination or Break

The designation of a beneficiary by a member is not affected by termination of nor a break in his membership.

(Added by Stats. 1947, Ch. 879.)

§ 9359.7. Minor Beneficiary

If any person entitled to a benefit of not more than five hundred dollars ($500) from this system is a minor who has no guardian of his estate, the board may pay it to the person entitled to the custody of the minor to hold for the minor, if the person files with the board his acknowledged and verified statement that the total estate of the minor does not exceed one thousand dollars ($1,000) in value. Payment so made is a full discharge of the board and this system. The person shall account to the minor for the money when the minor reaches the age of majority.

(Added by Stats. 1947, Ch. 879.)

§ 9359.8. Death Before Retirement

Upon the death of any member before retirement, the member's accumulated contributions shall be paid to the member's beneficiary, if he or she has designated one, and if not, to his or her estate. There shall also be paid to his or her beneficiary or estate an amount equal to one-twelfth of the annual compensation of the office last held by the member as a legislator during the 12 months immediately preceding his or her death or that would have been applicable under Section 9359.1, whichever is greater, multiplied by the number of completed years of service and prior service for which the member is entitled to elect to receive credit. The benefits provided by this section are in addition to any benefits provided by Division 4 (commencing with Section 3201) of the Labor Code.

The benefit accorded by this section is not payable if the deceased member's spouse survives him or her and is entitled to receive an allowance for life pursuant to this chapter.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1949, Ch. 1109; by Stats. 1953, Ch. 17, effective 3/12/53, and Ch. 1892, effective 7/11/53; by Stats. 1957, Ch. 1871, effective 7/9/57; by Stats. 1959, Ch. 2133; by Stats. 1971, Ch. 1277; and by Stats. 1985, Ch. 106.)

§ 9359.83. Deduction for Group Insurance and Other Charges

Retired members of the system, and beneficiaries, who are entitled to receive allowances under the provisions of this chapter, may authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the board, for the payment of group insurance premiums and for dues or charges of a nonprofit membership corporation for the purpose of defraying the cost of medical services or hospital care, or both, under any plan approved by the Director of Finance. Those persons may also authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the board, for the payment of contributions for any health benefit plan coverage for which they may be eligible under the provisions of Chapter 1 (commencing with Section 22750) of Part 5 of Division 5 of Title 2 of this code.

(Added by Stats. 1963, Ch. 1627; amended by Stats. 1966, 1st Ex Sess, Ch. 152; and by Stats. 2004, Ch. 69, effective 6/24/04.)

§ 9359.85. Death After Retirement: Payment to Estate or Beneficiary

Upon the death of any person, after retirement and while receiving a retirement allowance from this system, there shall be paid to his or her estate or to those beneficiaries as he or she shall nominate the sum of six hundred dollars ($600).

(Added by Stats. 1949, Ch. 1109; amended by Stats. 1963, Ch. 1597; and by Stats. 2002, Ch. 664.)

§ 9359.9. Payment Without Probate When No Beneficiary

If a beneficiary is not designated, or if the estate is the beneficiary and the estate would not be probated if no amount were due from this system, all of the amount due by reason of the death of a member or retired member, including retirement allowances accrued but not received prior to death, shall be paid directly without probate to the surviving next of kin of the deceased, or the guardians of such survivors' estates, share and share alike.

Such payment shall be made in the same order in which the following groups are listed:

1. Husband or wife,
2. Children,
3. Father and mother,
4. Grandchildren,
5. Brothers and sisters,
6. Nieces and nephews.

(Added by Stats. 1947, Ch. 879.)

§ 9359.95. Death Before Retirement: Payment of Annual Compensation

In addition to any other benefits provided for in this chapter, upon the death, on or after January 1, 1959, and before retirement, of any member who, at the time of his or her death was a legislator, there shall be paid to his or her beneficiary, if he or she has designated one, and if not, to his or her estate, an amount equal to the annual compensation payable to him or her during the 12 months immediately preceding his or her death.

(Added by Stats. 1943, Ch. 134; amended and renumbered by Stats. 1960, 1st Ex Sess, Ch. 32, effective 4/15/60; amended by Stats. 1969, Ch. 193; by Stats. 1971, Ch. 1277; and by Stats. 2002, Ch. 664.)

§ 9360. Procedure for Payment

No payment shall be made to persons included in any group if at the date of payment there are living persons in any of the groups preceding it, as listed. Payment to the persons in any group, upon receipt from them of an affidavit upon a form supplied by the board, that there are no living individuals in the groups preceding it and that the estate of the deceased will not be probated, is in full discharge of the board and system on account of the death.

(Added by Stats. 1947, Ch. 879.)

§ 9360.1. Payment for Funeral

If the estate of the deceased member is his beneficiary, or if no beneficiary has been designated by him, or if the designated beneficiary cannot be found by the board, it may in its discretion pay to the funeral director who conducted the funeral, or to any person or organization that has paid the funeral director from his or the organization's funds, all or a portion of any amount payable under this system, but not more than expenses of the funeral or the portion of such expenses paid by the person or organization, as evidenced by the sworn itemized statement of the funeral director 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. 879.)

§ 9360.2. "Disability" and "Incapacity for Performance of Duty"

As used in this chapter, "disability" and "incapacity for performance of duty" as a basis of retirement, mean disability of permanent or extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(Added by Stats. 1949, Ch. 1109.)

§ 9360.3. Disability Retirement: Application

Application to the board for retirement of a member for disability may be made by the member or any person in his or her behalf. Upon receipt of the application and determination of the board that the applicant is incapacitated for the performance of duty, the board shall retire the member for disability. The application shall be made only during one or more of the three following periods:

(a) While the person is a member of this system.

(b) During any time as he or she has allowed his or her accumulated contributions to remain in the system pursuant to Section 9355.2.

(c) If the person has not allowed his or her accumulated contributions to remain in the system pursuant to Section 9355.2 and if he or she was physically or mentally incapacitated to perform his or her duties on the date of discontinuance of his or her service as a legislator and the incapacity continued to the time of application, while he or she is physically or mentally incapacitated.

(Added by Stats. 1949, Ch. 1109; amended by Stats. 1959, Ch. 597; by Stats. 1961, Ch. 2123; by Stats. 1973, Ch. 7, effective 3/13/73; and by Stats. 2002, Ch. 664.)

§ 9360.4. Medical Examination

The board may require any recipient of a disability allowance under the minimum age for voluntary retirement 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 recipient or other place mutually agreed upon. Upon the basis of the examination, the board shall determine whether the physical or mental disability still exists. If the board determines that the recipient is not so incapacitated, his or her disability allowance shall be canceled forthwith.

(Added by Stats. 1949, Ch. 1109; amended by Stats. 2002, Ch. 664.)

§ 9360.5. Refusal to Submit to Medical Examination

If any recipient of a disability retirement allowance under the minimum age for voluntary retirement refuses to submit to medical examination, the retirement allowance shall be discontinued until he or she agrees to submit to the examination. If the refusal continues for one year, disability retirement allowance shall be discontinued.

(Added by Stats. 1949, Ch. 1109; amended by Stats. 2002, Ch. 664.)

§ 9360.6. Disability Retirement Allowance

The disability allowance for other than legislative statutory officers is the same as the retirement allowance that would be payable to the member had he or she retired under this chapter for reasons other than disability, and shall be paid regardless of the age of the member at the time of his or her retirement for

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disability. The disability retirement allowance for legislative statutory officers is the same as the retirement allowance provided in Section 9359.10, and shall be paid regardless of the age of the member at the time of his or her retirement for disability.

(Added by Stats. 1949, Ch. 1109; amended by Stats. 1969, Ch. 193; by Stats. 1973, Ch. 7, effective 3/13/73; and by Stats. 2002, Ch. 664.)

§ 9360.7. Surviving Spouse: Right of Election

(a) Any Member of the Senate or Assembly who, after the effective date of this section, retires for service or disability shall receive the retirement allowance provided by this chapter unmodified by any optional settlement elected pursuant to Article 7 (commencing with Section 9361) of this chapter.

(b) The surviving spouse of a member described in subdivision (a) who dies after retirement may elect to receive an allowance under this section. Any surviving spouse making that election shall receive an allowance equal to one-half of the retirement allowance, unmodified by any optional settlement that would be payable to the member were he or she living and retired under this chapter.

(c) The surviving spouse of a member who is a Member of the Senate or Assembly and who dies before retirement but after becoming eligible for retirement may elect to receive an allowance under this section. Any surviving spouse making that election shall receive an allowance equal to one-half of the amount of the retirement allowance, unmodified by any optional settlement, that would be payable to the member were he or she living and retired under this chapter. If there is no surviving spouse, or if the spouse dies or remarries, then the allowance payable under this paragraph shall be payable to the children of the member under the same conditions and qualifications as provided for the allowances of children under Article 8 (commencing with Section 9371) of this chapter.

(d) The election provided for in this section shall be made by a writing filed with the board within 60 days after the death of the member.

(e) The allowance to a surviving spouse provided by this section is payable commencing upon the death of the member and continuing until the death or remarriage of the surviving spouse. If pursuant to this section, an allowance is paid to a surviving spouse, no payment shall be made pursuant to Section 9359.8 or pursuant to Article 7 (commencing with Section 9361) of this chapter.

(f) The provisions of this section apply to the surviving spouse of any Member of the Senate or Assembly who was credited with 20 or more years of service at the time of his or her retirement and regardless of the date of retirement.

(Added by Stats. 1961, Ch. 1897; amended by Stats. 1965, Ch. 159; by Stats. 1969, Ch. 193, and Ch. 1582; by Stats. 1972, Ch. 1409; by Stats. 1974, 2d Ex Sess, Ch. 1, effective 10/7/74; and by Stats. 2002, Ch. 664.)

§ 9360.8. Renumbered

(Added by Stats. 1963, Ch. 2103; renumbered as Gov C § 9360.9 by Stats. 1963, Ch. 2174.)

§ 9360.9. Cost-of-Living Adjustments (COLAs)

Notwithstanding any other provisions of this chapter, the provisions of this section shall be applicable to all allowances granted by this chapter commencing with each installment paid or payable on or after January 1, 1964, with respect to Members of the Senate or the Assembly not having service in such office during or after the term commencing in 1967 and members who are elective officers of the state whose offices are provided by the Constitution and who were first elected to any such office prior to January 1, 1966.

On or before January 1, 1964, the board shall adjust the amount of the allowances payable during the 1964 calendar year to reflect any increase in cost of living occurring between the 1963 calendar year and the 1955 calendar year, inclusive, and any increase resulting from such adjustment shall be payable commencing with each installment of allowances paid or payable on or after January 1, 1964. On or before January 15, 1965, and, on or before January 15 of each year thereafter, the amount of the allowances provided by this chapter shall be adjusted by the board to reflect any increase in cost of living occurring after January 1 of the immediately preceding calendar year. Effective January 1, 1985, the United States city average of the "Consumer Price Index for all Urban Consumers," as published by the United States Bureau of Statistics, shall be used as the basis for determining the changes in the cost of living. For the period from January 1, 1978, through December 31, 1984, the average of the separate indices of the "Consumer Price Index for All Urban Consumers" for the Los Angeles-Long Beach-Anaheim area, and the San Francisco-Oakland area, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. For the period prior to January 1, 1978, the average of the separate indices for the Los Angeles-Long Beach area and the San Francisco-Oakland area, as published by the United States Bureau of La bor Statistics, shall be used as the basis for determining the changes in the cost of living. The cost-of-living increase shall equal or exceed 1 percent before any adjustment is made in the allowance. The calendar year 1954 shall be used as the base year in computing any annual adjustment. The annual adjustment made on or before January 15, 1965 and made on or before January 15 of each calendar year thereafter shall correspond to the average annual change in the calendar year immediately preceding the year during which the adjustment shall be effective. The adjustment made on or before January 1, 1964, shall correspond to the total of the average annual changes in each calendar year from the 1955 calendar year to the 1963 calendar year, inclusive.

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The adjustment provided by this section shall be made only if it operates to effect an increase over the allowance payable for the calendar year immediately preceding.

(Added by Stats. 1963, Ch. 2103; renumbered by Stats. 1963, Ch. 2174; amended by Stats. 1973, Ch. 7, effective 3/13/73; by Stats. 1974, 2d Ex Sess, Ch. 1, effective 10/7/74; by Stats. 1978, Ch. 900; and by Stats. 1984, Ch. 110, effective 5/3/84.)

§ 9360.10. Further Cost-of-Living Adjustments (COLAs)

On or before January 15, 1968, and on or before January 15 of each year thereafter, the amount of any allowances provided by this chapter and not subject to Section 9360.9 shall be adjusted by the board to reflect any increase in cost of living occurring after January 1 of the immediately preceding fiscal year. Effective January 1, 1985, the United States city average of the "Consumer Price Index for all Urban Consumers," as published by the United States Bureau of Statistics, shall be used as the basis for determining the changes in the cost of living. For the period from January 1, 1978, through December 31, 1984, the average of the separate indices of the "Consumer Price Index for All Urban Consumers" for the Los Angeles-Long Beach-Anaheim area and the San Francisco-Oakland area, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. For the period prior to January 1, 1978, the average of the separate indices for the Los Angeles-Long Beach area and the San Francisco-Oakland area, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. The cost-of-living increase shall equal or exceed 1 percent before any adjustment is made in the allowance. The adjustment provided by this section shall be made only if it operates to effect an increase over the allowance payable for the calendar year immediately preceding.

(Added by Stats. 1966, 1st Ex Sess, Ch. 163, operative 1/2/67; amended by Stats. 1978, Ch. 900; and by Stats. 1984, Ch. 110, effective 5/3/84.)

NOTE: See note following Section 9359.11.

§ 9360.11. Retirement Eligibility Under Former Section 9359.01

Notwithstanding any other provisions of this chapter, any member who would have been eligible to retire under Section 9359.01 had it not been repealed because he or she did not return to office or who would have been eligible to retire under that section had it not been repealed and had he or she chosen not to run or not been returned to office following the reapportionment of his or her district is deemed eligible for retirement for purposes of Sections 9360.7 and 9361.1 at any time thereafter.

(Added by Stats. 1974, 2d Ex Sess, Ch. 1, effective 10/7/74; amended by Stats. 2002, Ch. 664.)

ARTICLE 7. OPTIONAL SETTLEMENTS

§ 9361. Optional Settlement Election

In lieu of the retirement allowance for his life alone, a member or retired member may elect, or revoke or change a previous election, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in this article.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1957, Ch. 1871, effective 7/9/57.)

§ 9361.1. Time for Optional Settlement Election

(a) The election, revocation, or change of election set forth in Section 9361 may be made at any time before the effective date of retirement or after the effective date and prior to the making of the first payment on account of any retirement allowance.

(b) If at any time before the making of the first payment on account of the member's retirement allowance, his or her spouse dies, or his or her marriage is terminated by a final judgment of divorce or annulment, the election of the member is automatically void, and the member may make a new election.

(c) A member who has elected an optional settlement providing for the payment of a benefit to his or her spouse may at any time before the making of the first payment on account of his or her retirement allowance substitute a different optional settlement.

(d) The election, revocation, or change of election shall be made by a writing filed with the board.

(e) If a member who is eligible for retirement has elected one of the optional settlements specified in this article, the surviving spouse of that member shall receive the same benefits as the surviving spouse would have received if the date of his or her death had also been the date of his or her retirement and if retirement had preceded death. If in that event benefits are paid to a surviving spouse, no payment shall be made pursuant to Section 9359.8. If a member dies without having elected an optional settlement and there is a surviving spouse, he or she shall be deemed for the purposes of this paragraph to have elected Optional Settlement No. 2. In either case, the benefits payable to the surviving spouse shall be in the same amount as if the member had elected to receive credit for service rendered prior to the date he or she became a member of this system and had paid the full amount of the contributions in respect to that service.

(f) Any election filed under this section prior to the effective date of the amendments to this section enacted by the Legislature at the 1957 Regular Session shall continue to be effective in accordance with the terms of this section as it read

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prior to those amendments and may thereafter be revoked or changed or become void only in accordance with this section as it read prior to such amendment.

(Added by Stats. 1947, Ch. 879; amended by Stats. 1957, Ch. 1871, effective 7/9/57; and by Stats. 2002, Ch. 664.)

§ 9361.12. Optional Settlement: Designation of Different Beneficiary

Notwithstanding any provision of this part, a retired member who was a Member of the Senate or Assembly may revoke an optional settlement and may designate a different beneficiary by a writing filed with the board. The new beneficiary shall receive an allowance based upon the actuarial equivalent, as of the date of the election, of the retired member's allowance payable for the remainder of the lifetime of the retired member under one of the optional settlements specified in this article.

(Added by Stats. 1985, Ch. 255.)

§ 9361.15. Optional Settlement: Multiple Beneficiary Designation

A member may designate one or more persons as beneficiaries. If more than one person is designated under an optional settlement involving life contingency of the beneficiary, the member will be deemed to have elected such optional settlement on an equal portion of his allowance independently for each beneficiary.

(Added by Stats. 1967, Ch. 1716.)

§ 9361.2. Optional Settlement 1

Optional Settlement 1 consists of the right 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 the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her beneficiary or estate.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

§ 9361.3. Optional Settlement 2

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

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

§ 9361.4. Optional Settlement 3

Optional Settlement 3 consists of the right 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 his or her beneficiary for life.

(Added by Stats. 1947, Ch. 879; amended by Stats. 2002, Ch. 664.)

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§ 9361.5. Optional Settlement 4

Optional Settlement 4 consists of such other benefits as are the actuarial equivalent of his retirement allowance, that he may select subject to the approval of the board.

(Added by Stats. 1947, Ch. 879.)

ARTICLE 8. SURVIVOR'S ALLOWANCES

§ 9371. Election and Cancellation of Coverage

(a) This article applies to members who elect to be subject to its provisions and does not apply to any member while his or her services are included in the federal social security system.

(b) An election pursuant to this section shall be in writing and shall be effective only when received in the office of the board. The board may, on the request of any member who elects to be subject to this article, cancel the election if it finds that the election was made because of the member's mistake or misunderstandings and that the member has acted diligently in making the request. The cancellation is effective as of the first day of the month following the board's action canceling the election.

(Added by Stats. 1972, Ch. 1409; amended by Stats. 2002, Ch. 664.)

§ 9372. "Survivor Allowance"

"Survivor allowance" means the allowance provided for in Section 9374.

(Added by Stats. 1972, Ch. 1409.)

§ 9373. "Disability," "Disabled," or "Incapacitated"

"Disability," "disabled" or "incapacitated" means, with respect to qualification for a survivor allowance, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined on the basis of competent medical opinion secured by the board, to be of permanent or extended and uncertain duration.

(Added by Stats. 1972, Ch. 1409.)

§ 9374. Allowance to Deceased Member's Survivors

Upon the death of a member before retirement (a) the surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age, or if there is no such spouse, then (b) the guardian of surviving unmarried children, including stepchildren, of the member

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who are under 18 years of age or so incapacitated, if any, or (c) the surviving wife or surviving husband of the member, who does not qualify under (a) , if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid the following applicable survivor allowance, under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member under 18 years of age or so incapacitated, shall be paid three hundred sixty dollars ($360) if there is one such child, or four hundred thirty dollars ($430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all of those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(a) If there is only one such child, such child shall be paid one hundred eighty dollars ($180) per month;

(b) If there are two such children, such children shall be paid three hundred sixty dollars ($360) per month divided equally between them; and

(c) If there are three or more such children, such children shall be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A widow or widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to such member prior to the occurrence of the injury or onset of the illness that resulted in death, and has not remarried subsequent to the member's death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this subdivision, while the surviving spouse is receiving an allowance under subdivision (1) of this section, or while an allowance is being paid under subdivision (2)(c) of this section. The allowance paid under this subdivision shall be seventy dollars ($70) per month while an allowance is being paid under subdivision (2)(b) of this section.

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies or remarries, or if such children reach age 18 or die or marry prior thereto, each of the member's dependent mother and father who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

"Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(Added by Stats. 1972, Ch. 1409; amended by Stats. 1976, Ch. 1436; and by Stats. 2002, Ch. 664.)

§ 9375. Age of Full-Time Student

For the purposes of Section 9374, a person shall be considered to be under the age of 18 if he or she is under the age of 22 and a full-time student.

(Added by Stats. 1972, Ch. 1409; amended by Stats. 2002, Ch. 664.)

§ 9376. Reduction of Allowance by Amount of Other Benefit

When the survivor is entitled to receive a monthly allowance as a death benefit provided by any other provision of this chapter and at the same time is entitled to receive a survivor allowance, the survivor allowance payable in any month shall be reduced by the amount of such other allowance or benefit.

(Added by Stats. 1972, Ch. 1409.)

§ 9377. Member's Contributions

The rate of contribution of a member subject to this article shall include in addition to his normal rate, two dollars ($2) per month. Such contributions shall not become a part of a member's accumulated contributions or be treated or administered as normal contributions and shall not be refundable to a member under any circumstances. Such contributions shall be available only for payment of survivors' allowances under this article.

Contributions shall begin on the first of the month or the payroll period following the filing of an election to be subject to this article.

(Added by Stats. 1972, Ch. 1409.)

§ 9378. Allowance to Survivor of More Than One Member

A person who in any month is an eligible survivor of more than one member, shall receive only one allowance under this article, which shall be the largest of the monthly allowances to which he or she would otherwise be entitled.

(Added by Stats. 1972, Ch. 1409; amended by Stats. 2002, Ch. 664.)

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OTHER RELEVANT LAW SECTIONS

Extract of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations

CHAPTER 2. Board Of Administration Of the Public Employees' Retirement System

SUBCHAPTER 2. Social Security (OASDHI) Regulations

§ 555.1. Right of Appeal

Any applicant dissatisfied with the action of the Executive Officer on his application, other than his referral of the matter for hearing, may appeal such action to the Board by filing a written notice of such appeal at the offices of the Board within thirty days of the date of the mailing to him by the Executive Officer, at his most recent address of record, of notice of the action and right of appeal. An appeal shall contain a statement of the facts and the law forming the basis for appeal. Upon a satisfactory showing of good cause, the Executive Officer may grant additional time not to exceed 30 days, within which to file such appeal.

HISTORY:
1. Amendment filed 4-28-76; effective thirtieth day thereafter (Register 76, No. 18).

§ 555.2. Statement of Issues

Any applicant filing an appeal shall be entitled to a hearing, and upon the filing of an appeal in accordance with these rules, or upon the Executive Officer's referral of any question for hearing, the Executive Officer shall execute a statement of issues. Such action of the Executive Officer shall not preclude the Board from recalling the proceedings for its review or hearing.

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