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Chapter 3. County Employees Retirement Law of 1937

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§31765.3. Amount of survivor allowance paid on or after operative date of this section pursuant to Section 31765.1 on account of member who dies before operative date of this section; application and operative effect (Los Angeles)

(a) Notwithstanding Section 31765.1, each survivor allowance paid on or after the operative date of this section pursuant to Section 31765.1 on account of a member who dies before the operative date of this section shall be equal to 65 percent of the monthly retirement allowance to which the deceased member would have been entitled if he or she had retired on the date of death with a retirement allowance not modified in accordance with one of the optional settlements specified in this article, as adjusted for the net cost-of-living percentage increase, if any, awarded to that survivor prior to the operative date of this section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 12, Effective October 13, 2001, as an urgency statute)

§31768. Increase of amounts payable under Sections 31760.1, 31760.2, and 31765.1; authority of board; application to counties of the first class (Los Angeles)

Notwithstanding any other provision of this chapter to the contrary, the board may, by a resolution adopted, pursuant to both this section and Section 31792, by a majority vote and with respect only to persons who first become members on or after the effective date of the resolution, elect to increase, by 33 percent, the amounts payable pursuant to any one or more of Sections 31760.1, 31760.2, and 31765.1.

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

(Added by Stats. 1993, Ch. 286, Sec. 1)

Article 11.5

Deferred Retirement Option Program

(Article 11.5 added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770. Short title

This article shall be known and may be cited as the “Deferred Retirement Option Program.”

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.1. Creation of program; conformance with federal law; severability

(a) The Deferred Retirement Option Program is hereby created to provide eligible members who elect to participate in the program access to a lump sum, or in some cases, additional monthly payments for a specified period in addition to a monthly retirement allowance.

(b) The design and administration of the Deferred Retirement Option Program shall conform to the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.

(c) If any provision of this article or application thereof to any person or circumstance is held invalid, that invalidity will not affect other provisions or applications of this article that

can be given effect without the invalid provisions or application, and to this end the provisions of this article are severable.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.2. Definitions

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

(a) "DROP" or "program" means the Deferred Retirement Option Program established by this article, as adopted by a county or district.

(b) "Election date" means the date the member elects to participate in the program.

(c) "Deferred retirement calculation date" means the date prior to the member's actual retirement date, as of which benefits under the program shall be calculated as provided in Section 31778.1.

(d) "Implementing ordinance" means the ordinance or resolution adopted by the county board of supervisors or governing board of the district, pursuant to Section 31770.3, providing for the implementation of the program in the county or district and specifying the applicable program options as provided in this article.

(e) "Participant" means any eligible safety member of the system described in Section 31469.4, 31470.2, or 31470.4 who has validly elected to participate in the program.

(f) "Program account" means the account established by the system for each participant of the program pursuant to Section 31772.

(g) "Program period" means the period of time commencing on the election date and ending on the member's retirement date, which period may not exceed 60 months of elapsed time.

(h) "Retirement date" means the date the member terminates employment and retires from the system.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.3. Implementing ordinance required

(a) This article, or selected provisions of this article, shall become effective in any county or district only when the county board of supervisors or governing board of the district adopts an ordinance or resolution providing for that implementation. The board of supervisors or governing board may not adopt that ordinance or resolution, and this article, or selected portions of this article, may not become effective in the county or district unless and until the actuarial analysis described in Section 31770.4 has been completed and has determined that the program, as proposed to be adopted by the county or district, will be cost neutral and agreed to in a collective bargaining agreement.

(b) Based on the actuarial analysis, the requirement of cost neutrality, and the collective bargaining agreement, the county or district shall, in the implementing ordinance, elect one of the following for each bargaining unit other than a bargaining unit whose members are described in Section 31470.4:

(1) To be subject to the provisions of this article, including the forward DROP provisions contained in Sections 31771 to 31776.5, inclusive, but excluding the actuarial equivalent DROP provisions contained in Section 31777 and excluding the backward DROP provisions contained in Sections 31778 to 31778.2, inclusive.

(2) To be subject to the provisions of this article, including the actuarial equivalent DROP provisions contained in Section 31777, but excluding the forward DROP provisions contained in Sections 31771 to 31776.5, inclusive, and excluding the backward DROP provisions contained in Sections 31778 to 31778.2, inclusive.

(3) To be subject to the provisions of this article, including the backward DROP options contained in Sections 31778 to 31778.2, inclusive, but excluding the forward DROP provisions contained in Sections 31771 to 31776.5, inclusive, and excluding the actuarial equivalent DROP provisions contained in Section 31777.

(c) With respect to a bargaining unit whose members are described in Section 31470.4, the county or district may, in the implementing ordinance, be subject only to the provisions of this article as provided in paragraph (3) of subdivision (b).

(d) The program shall become operative with respect to all safety members of the system on the date specified in the implementing ordinance.

(e) The implementing ordinance shall specify a period of time, which shall be at least four years and not more than 10 years from the date of implementation, after which an initial review of the program shall be conducted pursuant to Section 31779.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.4. Actuarial analysis of cost neutrality

(a) The board shall, upon the request of, and before adoption of, the implementing ordinance by the county board of supervisors or governing board of the district, cause an actuarial analysis to be conducted to determine whether the program, as proposed to be adopted, will be cost neutral. A proposed program shall be deemed to be cost neutral if, based on the applicable actuarial assumptions, it will not have a significant negative financial impact on the members, employer, or the retirement system, as specified in subdivision (b).

(b) The actuarial analysis shall take into account the impact of the proposed program on specific measures, including, but not limited to, employer contributions, the system's actuarial accrued liability, and the present value of benefits. A proposed program will not be deemed to be cost neutral if there is any anticipated increase in any of these measures attributable to the implementation of the program or if there is a decrease in the present value of benefits of more than 3 percent attributable to the implementation of the program.

(c) The actuarial analysis shall identify all cost elements expected to change due to the implementation of the program and shall include the impact of those changes. These may include, but are not limited to, cost elements such as benefit payments, expected retirement age, and the likelihood of termination or disability by those near retirement age. The analysis may not take into account items unrelated to the proposed programs, including the investment return on fund assets or the life expectancy of currently retired members.

(d) As used in this section:

(1) "Actuarial accrued liability" means the portion of the present value of benefits attributable to service before the valuation date.

(2) "Present value of benefits" means the value, as of the valuation date, of all benefits expected to be paid to current members of the system.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.5. Implementing ordinance; establishment of eligibility requirements

(a) The implementing ordinance shall establish the eligibility requirements for participation in the program, subject to this section and the collective bargaining agreement. The ordinance shall specify the minimum age and the minimum and maximum, if any, years of service credit required to be eligible to participate in the program, which minimum and maximum, if any, may not be less than the minimum age and service credit requirements for service retirement.

(b) Members shall be eligible to elect to participate in the program at any time after the attainment of the minimum age and years of credited service in the system specified in the implementing ordinance. Members who satisfy the eligibility requirements on the

implementation date of the program, as set forth in the implementing ordinance, shall be eligible to elect to participate in the program as of the operative date of the program.

(c) Prior service purchased pursuant to this chapter and service performed by the member under another public retirement system shall be included for purposes of determining eligibility for the program to the extent provided in Section 31836.

(d) Members who have left county or district service and who have elected deferred retirement pursuant to Article 9 (commencing with Section 31700) will not be eligible to participate in the forward DROP provisions unless they return to county service during the operative period of the program.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.6. Establishment of procedures; providing written information to members

(a) Upon adoption of the implementing ordinance, the retirement system shall establish procedures for notifying members of their rights under the program.

(b) Each member, before electing to participate in the program, shall be given written information regarding how benefits under the program would be calculated and a comparison of the member's anticipated benefits at retirement with and without participation in the program. All members will be advised to seek advice from professional tax and investment advisors before electing to participate in the program.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.7. Right to benefits exempt from execution

The right of a participant to benefits under the program is not subject to execution or any other process, except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and is unassignable except as specifically provided under this chapter.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31770.8. Rights of participants subject to laws or court orders relating to dissolution of marriage, child support, etc.

The rights of a participant or his or her spouse under the program shall be subject to any applicable provisions of law or court orders relating to dissolution of marriage, division of community property, and child or spousal support.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31771. Forward DROP provisions

The provisions of this section to Section 31776.5, inclusive, shall be referred to collectively as the "forward DROP provisions."

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31771.1. Election to participate in forward DROP provisions; form; spousal consent

(a) Any member who elects to participate in the forward DROP provisions of the program shall make the election on a form prescribed and retained by the board. On that form the member shall do all of the following:

(1) Designate a program period that will not exceed 60 months of elapsed time, agree to terminate covered employment under the system no later than the end of that designated period, and acknowledge that participation in the program is not a guarantee of continued employment for any period.

(2) Waive any claims with respect to age and other discrimination in employment laws relative to the program as are required by the employer or the system.

(3) Waive the right to disability retirement benefits based on a condition relating to an illness or injury that occurred prior to the program period. This waiver does not apply to any rights the member may have under Section 31720.5, 31720.6, or 31720.7, which rights shall remain in effect until the member receives a distribution of some or all of the balance in his or her program account.

(b) If the member is married, the member's spouse shall execute a statement, on a form prescribed by the board, acknowledging the spouse's understanding of, and agreement with, the member's election to participate in the program, together with an express statement of the spouse's understanding and agreement that benefits payable to the spouse upon the death of the member will be reduced as a result of that participation.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31771.2. Accrual of benefits under this article; irrevocability of election; exceptions; rights and privileges; eligibility of spouse

(a) On and after the election date, the participant shall cease to accrue retirement benefits under this chapter, and instead shall begin to accrue benefits under the program pursuant to the terms of this article, which benefits shall be credited to the participant's program account pursuant to Section 31772.

(b) A member's election to participate in the program shall be irrevocable except in the following circumstances:

(1) If the member is married on the election date and if that spouse dies during the program period, the member may, within 90 days after the spouse's death, elect to revoke his or her election to participate in the program. In that case, the member's benefits shall be calculated on retirement as if the member had never entered the program.

(2) If the member elects to retire for disability under the circumstances described in Section 31774, the member's participation in the program shall cease and the member may apply for conversion of the deferred retirement allowance to a disability allowance calculated at date of entry into the program, and the employee shall retain all proceeds in the program account.

(c)(1) A participant in the program shall have all of the rights, privileges, and benefits, and is subject to all terms and conditions of active employment including, but not limited to, eligibility for other benefit programs not related to retirement benefits, seniority, accrual and use of vacation and sick leave, and pay increases.

(2) A participant shall continue to make normal member contributions under this chapter during the program period.

(d) Except as otherwise provided in Section 31773, eligibility of a spouse for any benefits, including survivor's benefits shall be based on the participant's marital status and the duration of the marriage as of the retirement date.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31771.3. Implementing ordinance; statement regarding employer contributions

The implementing ordinance shall specify, based on the results of the actuarial analysis and the requirement that the program be cost neutral, as described in Section 31770.4, whether the employer shall be required to continue to make contributions to the system with respect to the compensation of participants in the program and whether that compensation shall be included in the determination of employer contribution rates.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31772. Program account restrictions; amount credited to account

(a) A program account shall be established within the system for each participant. No system assets shall be separately segregated for any program account. A participant may not have a claim on any specific assets of the system.

(b) A participant's program account shall be credited with an amount equal to the service retirement allowance the member would have received if the member had retired for service on the election date and had selected an unmodified allowance, subject to the following:

(1) Sick leave and vacation time accrued by the member as of the election date may not be included in the calculation of service credit or final compensation for the retirement time where the member enters the program, except as otherwise provided in a collective bargaining agreement.

(2) The provisions of Article 15 (commencing with Section 31830) may not apply in the calculation of the participant's final compensation.

(c) Subject to the results of the actuarial analysis and the requirement that the program be cost neutral, the implementing ordinance may provide that some or all of the following amounts shall also be credited monthly to the participant's program account:

(1) Some or all of the normal member contributions under this chapter made by, or on behalf of, the participant during the program period.

(2) Some or all of the employer contributions to the system made on account of the participant during the program period.

(3) Some or all of the annual cost-of-living adjustments the member would have received if the member had retired for service on the election date and selected an unmodified allowance.

(4) Interest. If the implementing ordinance provides for the crediting of interest, it shall be credited semiannually at a rate that is equal to: (A) the interest rate, if any, applicable to employee contributions to the system, or (B) a fixed rate specified in the implementing ordinance, or (C) a rate determined semiannually by the retirement board.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31772.1. Statement of account

The board shall provide a statement to the participant that displays the value or balance of the participant's program account and summarizes any credits to the account or other transactions that occurred after the immediately preceding valuation date. The statement of account shall be provided at least once annually to each participant, and may be provided more often.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31773. Participant dying during program period; procedure

(a) If a participant dies during the program period, he or she shall be deemed to have died while eligible for retirement and his or her benefits shall be calculated as if in active service, except as provided in subdivisions (b) and (c).

(b) Benefits under Article 12 (commencing with Section 31780) or, if applicable, Section 31765, 31765.1, or 31765.11 shall be calculated as if the participant had died on the election date. Notwithstanding the foregoing, eligibility of a spouse for any benefits shall be based on the participant's marital status and the duration of the marriage as of the actual date of death.

(c) The balance in the participant's program account shall be distributed pursuant to Section 31776.4.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31774. Participant becoming eligible for disability retirement during program period; procedure

If a participant becomes eligible for disability retirement due to an injury or illness occurring during the program period or pursuant to Section 31720.5, 31720.6, or 31720.7, the participant shall elect to either:

(a) Retire for disability, in which case the participant may apply for conversion of the deferred retirement allowance to a disability allowance calculated at the election date and the employee shall retain all of the proceeds in the program account.

(b) Retire for service, in which case the participant shall waive any rights he or she may have to disability retirement benefits, except as provided in Section 31720.5, 31720.6, or 31720.7, and shall be entitled to a distribution of the balance in his or her program account and a monthly retirement allowance, as provided in Section 31776.1.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31775. Termination of participant in program

Participation in the program shall be terminated, and the member will not have a right or claim to any continuing benefits under the program upon the first occurrence of any of the following events:

(a) Revocation of participation, as provided in subdivision (b) of Section 31771.2.

(b) Involuntary termination of employment. If a termination for cause is reversed, a member's participation in the program shall be reinstated and the member shall be made whole for the duration of the original program period, as designated by the member upon entry into the program.

(c) Commencement of disability retirement benefits, as provided in subdivision (a) of Section 31774.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31776. Completion of participation and entitlement to benefits

Participation in the program shall be completed and the participant shall be entitled to benefits under the program upon the first occurrence of either of the following during the program period:

(a) Retirement of the participant for service.

(b) Death of the participant.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31776.1. Termination of employment and retirement from service; procedure

Upon termination of employment and retirement for service under the system, a participant shall:

(a) Receive a distribution, in the manner prescribed in Section 31776.3, of the balance in the participant's program account.

(b) Begin receiving a monthly retirement allowance in an amount calculated pursuant to Section 31776.2.

(c) Waive the right to any disability retirement benefits from the system, except for postretirement disability rights. This waiver does not include any rights the member may have pursuant to Sections 31720.5, 31720.6, and 31720.7.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31776.2. Monthly allowance; amount

The participant's monthly allowance shall be an amount equal to the monthly allowance the participant would have received if he or she had retired for service on the election date,

subject to the following:

(a) Any unused sick leave or vacation leave that accrued as of the election date and was not used by the participant during the program period may be included in the calculation of the participant's allowance in accordance with a collective bargaining agreement, subject to other retirement rules for members not participating in the program.

(b) The participant's allowance may be adjusted in accordance with the implementing ordinance for some or all of the cost-of-living adjustments that the participant would have received during the program period as if the participant had retired on the election date.

(c) The participant's allowance shall be adjusted based on any election by the participant of any optional retirement allowance pursuant to Article 11 (commencing with Section 31760). The adjustment shall be based on the ages of the participant and, if applicable, the participant's spouse or beneficiary as of the retirement date.

(d) The provisions of Article 15 (commencing with Section 31830) shall apply for purposes of calculating the participant's allowance. The participant shall be deemed to have retired on the retirement date for purposes of determining whether the member retired concurrently under both systems as required under this article.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31776.3. Methods of distribution

(a) Unless the implementing ordinance otherwise provides, the balance in the participant's program account shall be distributed to the participant in a single lump-sum payment at the time of retirement. If requested by the participant, the payment may be immediately deposited into a qualified tax-deferred account established by the participant.

(b) The implementing ordinance may provide one or more of the following optional forms of distribution for a participant's account:

(1) Substantially level installment payments over 240 months starting with the date that the member leaves DROP. The balance in the participant's account during the installment payout period shall be credited with interest at the same rate, if any, as is being credited to program accounts for currently active members. A cost-of-living adjustment may not be made to the monthly amount being paid pursuant to this paragraph.

(2) An annuity in a form established by the board and subject to the applicable provisions of the Internal Revenue Code that shall be the actuarial equivalent of the balance in the participant's program account on the retirement date. The "actuarial equivalent" under this paragraph shall be determined on the same basis as is used for determining optional settlements at retirement for a member's monthly retirement allowance.

(c) Notwithstanding any other provision of this article, a participant, nonparticipant spouse, or beneficiary may not be permitted to elect a distribution under this article that does not satisfy the requirements of Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations there under.

(d) The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution to the participant, the lump-sum payment shall be made, at the participant's option, not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70 and one-half years (or age determined by the Internal Revenue Service) or the calendar year in which the participant terminates all employment for the employer.

(2) In the case of a distribution to the participant in the form of installment payments or an annuity, payment shall begin, at the participant's option, not later than April 1 of the

calendar year following the later of the calendar year in which the participant attains age 70 and one-half years (or age determined by the Internal Revenue Service) or the calendar year in which the participant terminates all employment subject to coverage by the plan.

(3) In the case of a benefit payable on account of the participant's death, distribution shall be paid at the option of the beneficiary, no later than December 31 of the calendar year in which the first anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions shall commence on or before the later of either of the following:

(A) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(B) December 31 of the calendar year in which the participant would have attained the age of 70 and one-half years (or age determined by the Internal Revenue Service).

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

(Amended by Stats. 2004, Ch. 183 (A.B. 3082), Sec. 171)

§31776.4. Designation of beneficiaries

(a) A participant may designate a person or persons as beneficiaries of the balance in the participant's program account at any time during the program period. Any beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the participant, and filed with the board.

(b) The participant's beneficiary designation may not be given effect and shall be overridden to the extent that designation would impair the rights of any surviving spouse or surviving minors under applicable federal or state law.

(c) Unless otherwise provided in the beneficiary designation form, each designated beneficiary shall be entitled to equal shares of the lump-sum distribution that shall be payable from the participant's program account upon the death of the participant.

(d) The nomination of a beneficiary or beneficiaries under this section may be revoked at the pleasure of the person who made the nomination and a different beneficiary or beneficiaries may be nominated by a written designation duly executed and filed with the board.

(e) If the participant dies without a valid beneficiary designation on file, or if no designated beneficiary survives the participant, any balance remaining in the participant's account shall be payable to the participant's estate.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31776.5. Final compensation

The final compensation calculated under Section 31776.2 shall be the member's final compensation for purposes of calculating any reciprocal benefits due the member from another retirement system pursuant to Article 15 (commencing with Section 31830).

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31777. Actuarial equivalent DROP provisions

(a) The provisions of this section shall be referred to as the "actuarial equivalent DROP provisions."

(b) A member who retires for service on or after the operative date of the program may elect, on a form prescribed by the board, to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to this section in lieu of the monthly allowance that would otherwise be payable to the member pursuant to this chapter.

(c) A member who has elected to participate in the forward DROP provisions of the program, pursuant to Sections 31771 to 31776.5, inclusive, or the backward DROP provisions

of the program, pursuant to Sections 31778 to 31778.2, inclusive, is not eligible to make the election provided under this section.

(d)(1) A member who makes the election described in this section shall receive a one-time lump-sum payment at the time of retirement in an amount chosen by the member that may not exceed the maximum amount specified in the implementing ordinance, as provided in subdivision (e).

(2) The amount of the lump-sum payment shall be calculated in accordance with the implementing ordinance.

(e) The implementing ordinance shall prescribe one of the following amounts as the maximum amount of the lump-sum payment under this section:

(1) The aggregate amount of the member's contributions to the system, plus interest if applicable.

(2) The actuarial present value of 20 percent of the monthly allowance otherwise payable to the member under this chapter.

(3) An amount that would cause the member's monthly allowance under this chapter to be actuarially reduced to an amount equal to 50 percent of the member's final compensation.

(f) Notwithstanding any other provision of this chapter, a member who makes the election described in this section shall receive a monthly allowance pursuant to this chapter that shall be actuarially reduced to reflect the lump-sum amount paid under subdivision (d).

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31778. Backward DROP provisions; election

The provisions of this section through those of Section 31778.2, inclusive, shall be referred to collectively as the "backward DROP provisions." A member who retires on or after the effective date of the program may elect upon application for service or disability retirement, on a form prescribed by the board, to receive:

(a) A backward DROP payment calculated under Section 31778.1.

(b) A monthly retirement allowance calculated as if the member had retired on the deferred retirement calculation date, except that the retirement formula applicable to the member's service as of the election date shall be used to calculate the amount of the member's monthly retirement allowance.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31778.1. One-time lump-sum payment

A member who makes the election described in Section 31778 shall receive a one-time lump-sum payment upon retirement in an amount as calculated below.

(a) A participant's program account shall be credited with an amount equal to the retirement allowance the member would have received if the member had retired on the deferred retirement calculation date and had selected an unmodified allowance.

(b) The cost-of-living adjustments that would have been applicable during that period shall be included, applying the deferred retirement calculation date as the base year for the adjustment.

(c) All of the normal contributions that the member made under this chapter, plus interest applicable during the period from the deferred retirement calculation date to the election date.

(d) Some or all of the employer contributions made on account of the participant under this chapter, as agreed to in a collective bargaining agreement, plus interest applicable for the period from the deferred retirement calculation date to the election date.

(e) The member's program payment shall be the amount calculated under subdivision

(a) multiplied by the number of months in the deferred retirement period, plus the cost-of-living adjustment calculated under subdivision (b), the member contributions calculated under subdivision (c), and the employer contributions calculated under subdivision (d). The amount shall also include interest at a rate agreed upon in the collective bargaining agreement and adopted by the board of retirement, applicable to the amounts derived from subdivisions (a) and (b), for the period from the deferred retirement calculation date to the election date. The program payment shall also be credited with interest at a rate established by the board for the period from the election date until the payment is made.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31778.2. Participant dying between deferred calculation date and election date; procedure

(a) If a participant dies during the period from the deferred calculation date to the election date, he or she shall be deemed to have died while eligible for the deferred retirement option and the participant's eligible spouse or other beneficiary shall be qualified to elect the deferred retirement option under Section 31778 as if the participant were still living, except as provided in subdivisions (b) and (c).

(b) Benefits under Article 12 (commencing with Section 31780) or, if applicable, Section 31765, 31765.1 or 31765.11 shall be calculated as if the participant had died on the deferred retirement calculation date.

Notwithstanding the foregoing, eligibility of a spouse for any benefits shall be based on the participant's marital status and the duration of the marriage as of the actual date of death.

(c) The balance in the participant's program account shall be distributed pursuant to Section 31778.3.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31778.3. Designation of beneficiaries

(a) A participant may designate a person or persons as beneficiaries of the participant's program account at any time during the period from the deferred retirement calculation date to the election date. The beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the participant, and filed with the board.

(b) The participant's beneficiary designation may not be given effect, and shall be overridden, to the extent that designation would impair the rights of any surviving spouse or surviving minors under applicable federal or state law.

(c) Unless otherwise provided in the beneficiary designation form, each designated beneficiary shall be entitled to equal shares of the lump-sum distribution that shall be payable from the participant's program account upon the death of the participant.

(d) The nomination of a beneficiary or beneficiaries under this section may be revoked at the pleasure of the person who made the nomination, and a different beneficiary or beneficiaries may be nominated by a written designation duly executed and filed with the board.

(e) If the participant dies without a valid beneficiary designation on file, or if no designated beneficiary survives the participant, the participant's account shall be payable to the participant's estate.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31778.4. Termination of employment and retirement from system; member's program payment

Upon termination of employment and retirement from the system, a member who has elected to participate in the program shall receive the member's program payment, as

calculated pursuant to Section 31778.1 and in accordance with the distribution provisions of Sections 31776.3, 31776.4, and 31776.5.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31779. Actuarial analysis of cost impact; review and consideration

(a) After the program has been in effect for a period of at least four years and not more than 10 years, as specified in the implementing ordinance, or up to one year prior to the end of that specified period, the board shall cause an actuarial analysis of the cost impact of the program to be prepared and presented to the board of supervisors or governing body of the district for its review and consideration.

(b) If the actuarial analysis discloses that the program has not been cost neutral, the board of supervisors or governing board shall, by ordinance or resolution pursuant to a collective bargaining agreement with the bargaining unit, either:

(1) Discontinue the program, subject to Section 31779.1.

(2) Modify the program in a manner consistent with the actuarial analysis and the provisions of this article so that the program will be cost neutral.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31779.1. Discontinuance of program; rights of participants

The rights of a participant who has retired under the program, whose deferred retirement calculation date, or whose program period is in effect at the time the program is discontinued may not be affected by the discontinuance of the program and that participant shall remain subject to the provisions of the program as it existed on the participant's election date.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31779.2. Modification of program; participants' right to elect

If the program is modified pursuant to paragraph (2) of subdivision (b) of Section 31779, participants who entered, or who were eligible for, the program prior to the effective date of the modification shall be entitled to elect whether to become subject to the modified provisions of the program or to remain subject to the program as it existed on the participant's deferred retirement calculation date or election date, whichever occurred first.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

§31779.3. Periodic actuarial analysis of cost impact

As long as the program remains in effect, either as originally adopted or as modified pursuant to paragraph (2) of subdivision (b) of Section 31779, the board of retirement shall cause an actuarial analysis of the cost impact of the program to be prepared as provided in Section 31779 at the end of each successive period specified in the implementing ordinance or subsequently adopted by ordinance or resolution, and the board of supervisors or governing body may take the actions described in Section 31779 as appropriate based on the outcome of that analysis.

(Added by Stats. 2003, Ch. 897 (S.B. 274), Sec. 1)

Article 12

Death Benefit

(Article 12 added by Stats. 1947, Ch. 424, Sec. 1)

§31780. Liability for death benefit; payment

Upon the death before retirement of a member while in service or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from discontinuance of service, or within one month after discontinuance of service unless the member's accumulated contributions have been paid to the member pursuant to Section 31628, the retirement system is liable for a death benefit which shall be paid:

(a) As provided in Section 31765 or 31765.1 or 31765.11 or 31781.1 or 31787, if the surviving spouse or guardian of one or more of the surviving children of the member so elects, or

(b) If no election is made pursuant to Section 31765, or 31765.1, or 31765.11, or 31781.1, or 31787 and no person is entitled to a survivor's allowance pursuant to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861) to such person as he nominates by written designation duly executed and filed with the board, before the death of the member, or

(c) If no such election is made, and a parent as defined in Article 15.5 but no other person is entitled to a survivor's allowance pursuant to Article 15.5 or 16 and a surviving spouse or child is designated as beneficiary, to such surviving spouse or child, or

(d) If no such election is made, no person is entitled to a survivor's allowance pursuant to Article 15.5 or 16, and a member has not nominated a beneficiary, to his estate.

(Amended by Stats. 1980, Ch. 58, Sec. 13, Effective April 4, 1980)

§31780.1. Survivor benefits; unmarried children; determination of marital status; change in marital status

A child eligible to receive a survivor benefit under Section 31760.1, 31781.1, 31786, or 31787 shall be considered unmarried if the child is not married as of the date the member dies, whether or not the child was previously married. If the child thereafter marries, eligibility for the survivor benefit shall terminate, and the benefit shall not be reinstated if the child subsequently returns to unmarried status.

(Added by Stats. 1996, Ch. 493 (S.B. 792), Sec. 7)

§31780.2. Domestic partners; Benefits; Operative date contingent

(a) Any benefits accorded to a spouse pursuant to this article and Article 11 (commencing with Section 31760), Article 15.5 (commencing with Section 31841), Article 15.6 (commencing with Section 31855), and Article 16 (commencing with Section 31861), or any of them, may be accorded to a domestic partner, as defined in Section 297 of the Family Code, who is registered with the Secretary of State pursuant to Division 2.5 (commencing with Section 297) of the Family Code. The county may also require the member and the member's domestic partner to have a current Affidavit of Domestic Partnership, in the form adopted by the county board of supervisors, on file with the county for at least one year prior to the member's retirement or death prior to retirement.

(b) If a member described in subdivision (a) has a surviving dependent child, the surviving dependent child shall receive the death and survivor's allowance until 18 years of age or until married, whichever occurs earlier, or until 22 years of age if enrolled as a full-time student in an accredited educational institution. When the member's surviving dependent child reaches 18 years of age or is no longer a dependent, whichever occurs earlier, or reaches

22 years of age if enrolled as a full-time student in an accredited educational institution, then the benefits accorded to a spouse, as specified in subdivision (a), may be accorded to a domestic partner pursuant to this section. However, if a surviving dependent child elects to receive a lump-sum payment, the lump-sum payment shall be shared among any surviving dependent children and the domestic partner, pursuant to this section, in a proportional manner.

(c) This section is not operative unless and until the county board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county. In a county of the 10th class, as defined in Sections 28020 and 28031, the county board of supervisors may implement the benefits described in this section as determined through the collective bargaining process and based on actuarial cost estimates.

(d) This section shall not apply to any member whose death occurs on or after January 1, 2009.

(Added by Stats. 2001, Ch. 893 (A.B. 25), Sec. 9.5)

(Amended by Stats. 2003, Ch. 79 (A.B. 266), Sec. 1)

(Amended by Stats. 2003, Ch. 780 (S.B. 85), Sec. 1)

(Amended by Stats. 2008, Ch. 197 (A.B. 2673), Sec. 1)

§31781. Death benefit; elements

The death benefit shall consist of:

(a) The member's accumulated contributions.

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

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

§31781.01. Contra Costa County; death benefit; elements (Contra Costa)

Notwithstanding Section 31781, the death benefit of a member covered under Section 31751 shall consist of:

(a) The member's accumulated contributions.

(b) A lump sum of two thousand dollars (\$2,000) offset by any lump-sum death payment made under the federal Social Security Act.

(Added by Stats. 1980, Ch. 58, Sec. 14, Effective April 4, 1980)

§31781.1. Optional death allowance; election by surviving spouse; persons to whom paid; minor children

(a) If a member of a retirement system established in a county subject to the provisions of Section 31676.1 would have been entitled to retirement in the event of a non-service-connected disability, but dies as the result of an injury or illness prior to retirement, the surviving spouse of the member shall have the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided in Sections 31780 and 31781, an "optional death allowance."

(b) The allowance shall consist of a monthly payment equal to 60 percent of the monthly retirement allowance to which the deceased member would have been entitled if he or she had retired by reason of non-service-connected disability as of the date of his or her death.

(c) If the surviving spouse elects to receive the "optional death allowance" the payments due for this allowance shall be retroactive to the date of the deceased member's death, and shall continue throughout the life of the spouse.

(d) If the surviving spouse elects to receive the "optional death allowance," and

thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the "optional death allowance" shall thereafter be paid to those surviving children collectively until each child dies, marries, or reaches the age of 18 years. The right of any child to the allowance shall cease upon the child's death or marriage, or upon reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to each of the other qualified children.

(e) If the deceased member leaves no surviving spouse but leaves an unmarried child or children under the age of 18 years, the legally appointed guardian of the child or children shall make the election provided in this section on behalf of the surviving child or children that, in his or her judgment, is in the best interests of the surviving child or children. The election made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and each child of the deceased member are not dependent upon whether any of these persons have been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to each child of the member shall be paid to each child through the age of 21 if the child remains unmarried and is regularly enrolled as a full-time student in an accredited school as determined by the board.

(h) For purposes of this section, "child" means a natural or adopted child of the deceased member, or a stepchild living or domiciled with the deceased member at the time of his or her death.

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

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

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

§31781.11. Increase in death benefits; resolution adopted by majority vote (Los Angeles)

The board of supervisors of a county of the first class as described by Sections 28020 and 28022 may, by resolution adopted by a majority vote, increase the amounts of the death benefits payable pursuant to Sections 31760.1, 31765.1, 31781.1, and 31785, with respect to a death occurring on or after the date this section becomes operative in a county, up to the amount of the monthly allowance to which the deceased member was or would have been entitled as of the date of his or her death.

(Added by Stats. 1985, Ch. 890, Sec. 1)

§31781.12. Amount of allowance paid pursuant to Section 31781.1 on account of member who dies on or after operative date of this section; application and operative effect (Los Angeles)

Notwithstanding Section 31781.1, each allowance paid pursuant to Section 31781.1 on account of a member who dies on or after the operative date of this section shall be equal to 65 percent of the monthly retirement allowance to which the deceased member would have been entitled, without modification in accordance with one of the optional settlements specified in this article, if he or she had retired, or been retired, by reason of a nonservice-connected disability as of the date of death.

This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

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

§31781.13. Amount of allowance paid on or after operative date of this section pursuant to Section 31781.1 on account of member who dies before operative date of this section; application and operative effect (Los Angeles)

(a) Notwithstanding Section 31781.1, each allowance paid on or after the operative date of this section pursuant to Section 31781.1 on account of a member who dies before the operative date of this section shall be equal to 65 percent of the monthly retirement allowance to which the deceased member would have been entitled, without modification in accordance with one of the optional settlements specified in this article, if he or she had retired, or been retired, by reason of a nonservice-connected disability as of the date of death, adjusted for the net cost-of-living percentage increase, if any, awarded to that survivor prior to the operative date of this section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 14, Effective October 13, 2001, as an urgency statute)

§31781.2. Deferred death benefits; children's benefits; minor children

In lieu of accepting in cash the death benefit payable under Section 31781 or 31781.01, the surviving spouse of a member who dies prior to reaching the minimum retirement age and who at the date of his or her death has 10 or more years of service to his or her credit, shall have the option to leave the amount of the death benefit on deposit in the retirement system until the earliest date when the deceased member could have retired had he or she lived, and at that time receive the retirement allowance provided for in Section 31765 or 31765.1 or 31765.11, whichever is applicable.

If, at the death of such spouse, he or she is survived by one or more unmarried children of the member, under the age of 18 years, the retirement allowance shall continue to the child or children, collectively, until every child dies, marries, or attains the age of 18 years. If the spouse dies, either before or after the death of the member, without either making the election receiving any portion of the death benefit, and no part of the death benefit had been paid to any person, prior to the payment of any benefits, the legally appointed guardian of the children shall make the election herein provided for on behalf of such surviving children as, in his or her judgment, may appear to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

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

(Amended by Stats. 1980, Ch. 58, Sec. 15, Effective April 4, 1980)

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

§31781.3. Combined benefit; election by surviving spouse

The surviving spouse of a member who dies in service after five years of service or as a result of service-connected injury or disease may elect, in lieu of the death benefit in Section 31781 or the life annuity provided in Section 31781.1 or 31787, the following combined benefits:

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

(b) A monthly allowance as provided in Section 31781.1 or 31787 reduced by a monthly amount which is the actuarial equivalent of the amount in subdivision (a) as applied to the life of the surviving spouse.

(Amended by Stats. 1970, Ch. 729, Sec. 1)

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

Notwithstanding Sections 31781.1 and 31781.3, the surviving spouse of a member subject to Section 31751 who dies in service after 10 years of service, or as a result of service-connected injury or disease, may elect, in lieu of the life annuity provided in Section 31765.11 or the death benefit provided in Section 31781.01, the following combined benefit:

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

(b) A monthly allowance as provided in Section 31765.11 reduced by a monthly amount which is the actuarial equivalent of the amount in subdivision (a) as applied to the life of the surviving spouse.

(Added by Stats. 1980, Ch. 58, Sec. 16, Effective April 4, 1980)

§31782. Revocation of nomination of beneficiary

The nomination of a beneficiary under this system, other than nominations under optional settlements 2, 3 and 4, may be revoked at the pleasure of the person who made it and a different beneficiary nominated by written designation duly executed and filed with the board.

(Amended by Stats. 1953, Ch. 789, Sec. 11)

§31783. Payment of funeral expenses in absence of beneficiary; effect

If the nominated beneficiary cannot be found by the board, or if the nominated beneficiary is the estate of the deceased person, the board in its discretion may pay to the undertaker who conducted the funeral all or a portion of the amount payable as a death benefit, but not more than the funeral expenses of the deceased person as evidenced by the sworn itemized statement of the undertaker and by such other documents as the board may require.

Payment so made is a full discharge of the board and system for the amount so paid.

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

§31783.5. Unclaimed benefits; location of claimants; holding period; deposits to reserve fund; authority to return

(a) Whenever a person or estate entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) The board shall attempt to locate the claimant through such means as the board in its sound discretion deems reasonable including, but not limited to, a registered or certified letter, return receipt requested, mailed to the last known address of the claimant.

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivision (a) shall be held for the claimant. If the amounts are not claimed within five years after the last attempted contact with the claimant, the amounts shall be deposited in and become a part of the pension reserve fund. The board may at any time after transfer of unclaimed amounts, upon receipt of information satisfactory to it, authorize the return of amounts so held in reserve to the credit of the claimant. Those amounts shall be paid only

to claimants who have not yet attained the age of mandatory distribution under the Internal Revenue Code.

(Added by Stats. 1997, Ch. 43 (S.B. 419), Sec. 3)

§31784. Election of installment payments; lump sum payment on death of beneficiary

The person to whom the whole or any part of a death benefit is payable may, at any time before payment thereof, elect in writing to have such death benefit or part thereof paid over a period not to exceed 10 years in monthly installments, plus interest on the unpaid balance thereof, at a rate to be determined by the board. If such person dies before all such installments are paid, the board shall pay the balance in one lump sum to his estate or person entitled to receive his property.

(Added by Stats. 1951, Ch. 575, Sec. 1)

§31785. Continuance of allowance to family of deceased safety member of retirement system of certain counties; restrictions; payment in cases of death prior to January 1, 1952; minor children

Upon the death of any safety member, after retirement for service or nonservice-connected disability from a retirement system established in a county subject to the provisions of Section 31676.1 or 31695.1, 60 percent of his or her retirement allowance if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued throughout life to his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if she or he dies before every child of the deceased safety member attains the age of 18 years, then the allowance which the surviving spouse would have received had she or he lived, shall be paid to his or her child or children under that age, collectively, to continue until every child dies or attains that age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless she or he was married to the safety member at least one year prior to the date of his or her retirement.

Any qualified surviving spouse or children of a member of a pension system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200), who shall have been retired on or before December 31, 1951, shall be paid a retirement allowance pursuant to the provisions of this section. In cases where the death of a member occurred prior to January 1, 1952, the payment of the retirement allowance to the qualified surviving spouse or children shall be made effective on January 1, 1952. Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

The superseding rights pursuant to this section shall not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(Amended by Stats. 1967, Ch. 1622, Sec. 6)

(Amended by Stats. 1998, Ch. 132 (S.B. 2137), Sec. 5)

§31785.1. Continuance of retirement allowance to surviving spouse or children of deceased safety member; conditions

(a) Notwithstanding Section 31481 or 31785, upon the death of any safety member, after retirement for service or non-service-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of his or her retirement allowance

if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued to his or her surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if she or he dies before every child of the deceased safety member attains the age of 18 years, then the allowance that the surviving spouse would have received had he or she lived, shall be paid to his or her child or children under that age, collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless he or she was married to the safety member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

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

(d) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31785.

(e) The superseding rights pursuant to this section do not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(f) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

(Added by Stats. 1986, Ch. 849, Sec. 2)

(Amended by Stats. 1999, Ch. 161 (S.B. 670), Sec. 2)

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

§31785.4. Amount of survivor allowance paid pursuant to Section 31785 on account of safety member who retires on or after operative date of this section; application and operative effect (Los Angeles)

Notwithstanding Section 31785, each survivor allowance paid pursuant to Section 31785 on account of a safety member who retires on or after the operative date of this section shall be equal to 65 percent of the member's monthly retirement allowance, if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760).

This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 15, Effective October 13, 2001, as an urgency statute)

§31785.5. Amount of survivor allowance paid on or after operative date of this section pursuant to Section 31785 on account of safety member who retires before operative date of this section; application and operative effect (Los Angeles)

(a) Notwithstanding Section 31785, each survivor allowance paid on or after the operative date of this section pursuant to Section 31785 on account of a safety member who retires before the operative date of this section shall be equal to 65 percent of the member's monthly retirement allowance, if not modified in accordance with one of the optional

settlements specified in Article 11 (commencing with Section 31760), as adjusted for the net cost-of-living percentage increase, if any, awarded to that survivor prior to the operative date of this section.

(b) This section shall only be applicable to Los Angeles County and shall not become operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 16, Effective October 13, 2001, as an urgency statute)

§31786. Continuance of allowance to family of deceased member retired for service-connected disability; restrictions; minor children

Upon the death of any member after retirement for service-connected disability, his or her retirement allowance as it was at his or her death if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued throughout life to his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if she or he dies before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had she or he lived, shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless she or he was married to the member prior to the date of his or her retirement.

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

(Amended by Stats. 1967, Ch. 1622, Sec. 7)

(Amended by Stats. 1998, Ch. 132 (S.B. 2137), Sec. 7)

§31786.1. Continuance of retirement allowance to surviving spouse or children of deceased member; conditions

(a) Notwithstanding Section 31481 or 31786, upon the death of any member after retirement for service-connected disability, his or her retirement allowance as it was at his or her death if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued to his or her surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if he or she dies before every child of the deceased member attains the age of 18 years, then the allowance that the surviving spouse would have received had he or she lived, shall be paid to his or her child or children under that age, collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless he or she was married to the member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

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

(d) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31786.

(e) The superseding rights pursuant to this section do not affect benefits payable to

a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(f) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

(Added by Stats. 1986, Ch. 849, Sec. 3)

(Amended by Stats. 1999, Ch. 161 (S.B. 670), Sec. 3)

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

§31787. Optional death allowance; surviving spouse or children; election

(a) If a member would have been entitled to retirement in the event of a service-connected disability, but dies prior to retirement as the result of injury or disease arising out of and in the course of the member's employment, the surviving spouse of the member shall have the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided for in Sections 31780 and 31781, an optional death allowance.

(b) The optional death allowance shall consist of a monthly payment equal to the monthly retirement allowance to which the deceased member would have been entitled if he or she had retired by reason of a service-connected disability as of the date of his or her death.

(c) If the surviving spouse elects to receive the optional death allowance, the payments due for this allowance shall be retroactive to the date of the deceased member's death, and shall continue throughout the life of the spouse.

(d) If the surviving spouse elects to receive the optional death allowance, and thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the optional death allowance shall thereafter be paid to those surviving children collectively until each child dies, marries, or reaches the age of 18 years. The right of any child to the allowance shall cease upon the child's death or marriage, or upon reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to each of the other qualified children.

(e) If the deceased member leaves no surviving spouse but leaves an unmarried child or children under the age of 18 years, the legally appointed guardian of the child or children shall make the election provided in this section on behalf of the surviving child or children that, in his or her judgment, is in the best interests of the surviving child or children. The election made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and each child of the deceased member are not dependent upon whether any of those persons have been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provision of this section, the benefits otherwise payable to each child of the member shall be paid to each child through the age of 21 years if the child remains unmarried and is regularly enrolled as a full-time student in an accredited school as determined by the board.

(h) For purposes of this section, "child" means a natural or adopted child of the deceased member, or a stepchild living or domiciled with the deceased member at the time of his or her death.

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

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

Section 4 of Stats. 2003, Ch. 840 (A.B. 933) provides that this act shall apply retroactively to the survivors of a deceased person who dies or is killed in the line of duty on or after January 1, 2001.

§31787.5. Special death benefit; additional amount for children

(a) A surviving spouse of a member who is killed in the performance of duty or who dies as the result of an accident or an injury caused by external violence or physical force, incurred in the performance of the member's duty, now or hereafter entitled to receive a death allowance under Section 31787, shall be paid an additional amount for each of the member's children during the lifetime of the child, or until the child marries or reaches the age of 18 years, as follows, subject to the limitation in subdivision (b):

(1) For one child, twenty-five percent (25%) of the allowance provided in Section 31787.

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

(3) For three or more children, fifty percent (50%) of the allowance provided in Section 31787.

(b) If a benefit payable under this section, when added to a benefit payable under Section 31787, exceeds the maximum benefit payable by a tax qualified pension plan under the Internal Revenue Code (26 U.S.C.A. Sec. 401 et. seq.), the benefit payable under this section shall be reduced to the amount required to meet that benefit limit.

(c) If the surviving spouse does not have legal custody of the member's children, the allowance provided by this section shall be payable to the person to whom custody of the children has been awarded by a court of competent jurisdiction for each child during the lifetime of the child, or until the child marries or reaches the age of 18 years.

(d) The allowance provided by this section shall be payable to the surviving spouses of members whose duties consist of active law enforcement or active fire suppression or any other class or group of members as the retirement board shall fix. The allowance provided by this section is not payable to the surviving spouses of members described in Section 31469.2.

(e) Any child whose eligibility for an allowance pursuant to this section commenced on or after October 1, 1965, shall lose that eligibility effective on the date of his or her adoption.

(f) This section shall become operative in any county, which has adopted the provisions of this chapter but which has not previously adopted the provisions of this section on October 1, 1965. Each surviving spouse of a member or other person having legal custody of a member's child or children who is paid an additional amount for each of the member's children because of the amendments to this section enacted at the 1965 or 1967 Regular Session shall receive those payments as they accrue from and after October 1 of the year during which this section was amended to provide for the payment to him or her of that allowance, but the surviving spouse or other person shall not be given a claim for any increase in those benefits for a time prior to that date.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 years if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(Amended by Stats. 2000, Ch. 497 (S.B. 2008), Sec. 4)

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

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

A surviving spouse of a safety member who is killed in the performance of duty or who dies as the result of an accident or injury caused by external violence or physical force, incurred in the performance of his or her duty, shall be paid the following amount in addition to all other benefits provided by this chapter: A one-time lump-sum benefit equal to an amount, provided from contributions by the county or district, equal to the annual compensation earnable by the deceased at his or her monthly rate of compensation at the time of his or her

death. This section is not applicable to members described in Section 31469.2.
(Amended by Stats. 2003, Ch. 62 (S.B. 600), Sec. 154)

§31787.65. (Operative date contingent) Optional death allowance; eligible surviving spouse and children; increases linked to job classification (San Bernardino)

(a) For purposes of Section 31787, the final compensation upon which the special death benefit is calculated for the eligible surviving spouse or eligible children of a safety member killed in the performance of his or her duty shall be increased at any time the increase is effective and to the extent the compensation is increased for then-active members employed in the job classification and membership category that was applicable to the deceased member at the time of the injury, or the onset of the disease, causing death. The deceased member's final compensation shall be deemed to be subject to further increases hereunder only until the earlier of (1) the death of the surviving spouse or eligible children or (2) the date that the deceased member would have attained the age of 50 years.

(b) This section applies only to a county of the seventh class, as defined by Sections 28020 and 28028, as amended by Chapter 1204 of the Statutes of 1971, and shall not be operative until the board of supervisors, by resolution, makes this section applicable in the county. A resolution to make this section operative in the county shall specify whether these provisions apply retroactively or prospectively only.

(Added by Stats. 2009, Ch. 583 (S.B. 345), Sec. 1)

§31789. Specific amount from county or district contributions; amount

Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars (\$750) to be provided from contributions of the county or district.

This section applies to every member who dies after this section becomes operative whether he has retired before or after the operative date or effective date of this section.

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

(Amended by Stats. 1971, Ch. 282, Sec. 1)

§31789.01. Contra Costa County; specific amount from county or district; offset by federal payment (Contra Costa)

Notwithstanding Sections 31786, 31787, and 31787.5, upon the death, after retirement and while receiving a retirement allowance from this system, of any person who was covered under Section 31751, there shall be paid to the member's estate, or to such beneficiary as the member shall nominate by written designation duly executed and filed with the board, the sum of two thousand dollars (\$2,000) to be provided from contributions of the county or district, offset by any lump-sum death payment made under the federal Social Security Act.

(Added by Stats. 1980, Ch. 58, Sec. 17, Effective April 4, 1980)

§31789.1. Specific benefit from county surplus earnings

Upon the death of any member after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars (\$750).

This section applies to every member who dies after this section becomes operative whether he has retired before or after the operative date or effective date of this section.

Only one death benefit payment shall be paid under this section or under Section 31789, and shall be paid by the system subject to Section 31789 and this section where the member rendered his last active service.

This section shall not become operative in any county until such time as the board of retirement determines that its benefits may be financed from surplus earnings of the retirement fund. Upon this determination by the retirement board, the provisions of this section shall become operative.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510¹) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.²

(Amended by Stats. 1983, Ch. 886, Sec. 8)

¹Renumbered. See Section 31610 et seq.

²Renumbered Section 31618.

§31789.12. Benefit from county surplus earnings; increase; alternative payment from supplemental retiree benefits reserve

Notwithstanding Section 31789.1, the board may increase the sum payable pursuant to Section 31789.1 to one thousand dollars (\$1,000).

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31618.

(Amended by Stats. 1989, Ch. 149, Sec. 1)

§31789.13. Death of persons while receiving retirement allowances; supplemental benefits; maximum

Upon the death of any person while receiving a retirement allowance from the system, the board of retirement may supplement the sum payable pursuant to Section 31789 by an amount of two hundred fifty dollars (\$250) from the surplus earnings established pursuant to Section 31592.2.

This section applies to every retiree who dies after this section becomes operative whether retired before or after the operative date of this section.

This section shall not become operative in any county until such time as the board of retirement determines that this supplemental benefit can be financed from the surplus earnings established pursuant to Section 31592.2 which exceed 1 percent of the total assets of the retirement system.

The total of the death benefits paid pursuant to Section 31789 and this section shall not exceed one thousand dollars (\$1,000). The death benefits payable pursuant to Section 31789 and this section shall be paid only by the system which is subject to Section 31789 and this section and in which the member rendered his or her last service.

(Added by Stats. 1986, Ch. 441, Sec. 1, Effective July 22, 1986)

§31789.2. Death benefit; in lieu of payment; payment from contributions and surplus earnings

Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his estate, or to

such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars (\$750).

This section applies to every member who dies after this section becomes operative whether he has retired before or after the operative date or effective date of this section.

The death benefit provided by this section shall be paid in lieu of a payment under Section 31789 or 31789.1 and may be paid in part, from contributions of the county or district in accordance with Section 31789, and in part, from surplus earnings of the retirement system in accordance with Section 31789.1.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in such county and until such time as the board of retirement, by resolution adopted by a majority vote, determines that its portion of the benefits may be financed from surplus earnings of the retirement fund.

Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31510¹) of this chapter, only that portion of those benefits which is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.²

(Amended by Stats. 1983, Ch. 886, Sec. 9)

¹Renumbered. See Section 31610 et seq.

²Renumbered Section 31618.

§31789.3. Death of person receiving retirement allowance; death benefit to designees; operation and application of section

(a) Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his or her estate or to the beneficiary as he or she shall nominate by written designation duly executed and filed with the board, an amount determined by the board of supervisors to be provided from contributions of the county or district. The board of supervisors shall, by resolution adopted by majority vote, fix and determine an amount that shall not exceed five thousand dollars (\$5,000).

(b) This section applies to every member who dies after this section becomes operative whether he or she has retired before or after the operative date or effective date of this section.

(c) The death benefit provided by this section shall be paid in lieu of a payment under Section 31789 or 31789.1.

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

(Added by Stats. 1997, Ch. 439 (A.B. 407), Sec. 1)

§31789.5. Death of person while receiving retirement allowance; operation and application

(a) Upon the death of any person after retirement and while receiving a retirement allowance from this system, or any superseded system, there shall be paid to his or her estate, or to the beneficiary as he or she shall nominate by written designation duly executed and filed with the board, an amount determined by the board of supervisors. The board of supervisors shall, by resolution adopted by majority vote, fix and determine an amount that may not exceed five thousand dollars (\$5,000).

(b) This section applies to every member who dies after this section becomes operative whether he or she has retired before or after the operative date or effective date of this section.

(c) The death benefit provided by this section shall be paid in lieu of a payment under Section 31789 or 31789.1 and may be paid in part, from contributions of the county or district in

accordance with Section 31789, and in part, from surplus earnings of the retirement system in accordance with Section 31789.1.

(d) The death benefit provided by this section may, at the election of the board of retirement, be provided through a group life insurance policy if the cost of that policy to the system is the same or less than the cost to the system, county, or district of other methods of providing the benefit.

(e) This section may not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section applicable in the county and the board of retirement, by resolution adopted by a majority vote, determines that its portion of the cost of the benefits may be financed from surplus earnings of the retirement fund.

(f) Upon adoption, by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610), only that portion of those benefits that is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31618.

(Added by Stats. 1997, Ch. 439 (A.B. 407), Sec. 2)

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

§31790. Death before retirement; allowance to estate or beneficiary

Upon the death of any person before retirement which person shall have to his credit at least 10 years of service with the county or district, there shall be paid to his estate or to such beneficiary as he shall nominate by written designation duly executed and filed with the board, the sum of seven hundred fifty dollars (\$750) to be provided from the contributions of the county or district.

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

(Amended by Stats. 1971, Ch. 282, Sec. 2)

§31791. Increase in maximum age of eligible children; unmarried, enrolled, full-time students to age 23; payments to legally incompetent children regardless of age (Los Angeles)

Notwithstanding Section 31760.1, 31765.1, 31781.1, 31781.2, 31785, 31786, 31787, or 31787.5, the board of supervisors of a county of the first class as described by Sections 28020 and 28022 may, by resolution adopted by a majority vote and with respect to the death benefit payable pursuant to any, all, or any combination of, those sections, take any or all of the following actions:

(a) Increase the maximum age for eligible children who remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board, to the age of 23 years.

(b) Provide for payment of the death benefit to any surviving children for such period as those children remain legally incompetent to act as adults regardless of age.

(Added by Stats. 1985, Ch. 890, Sec. 2)

§31792. Increase of amounts payable; authority of board; application to counties of the first class (Los Angeles)

Notwithstanding any other provision of this chapter to the contrary, the board may, by a resolution adopted, pursuant to both this section and Section 31768, by a majority vote and with respect only to persons who first become members on or after the effective date of the resolution, act as follows:

(a) Elect to increase, by 33 percent, the amounts payable pursuant to anyone or more of Sections 31781.1, 31785, and 31785.1.

(b) Elect to decrease, by 20 percent, the amounts payable pursuant to any one or more of Sections 31786, 31786.1, and 31787.

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

(Added by Stats. 1993, Ch. 286 (A.B. 1452), Sec. 2)

Article 13
Integration with Old Age and Survivors Insurance
(Article 13 added by Stats. 1957, Ch. 663, Sec. 1)

§31800. Applicability; resolution of governing board; approval by eligible members; referendum

The provisions of this article shall be applicable to any member who is subject to the federal old age and survivors insurance provisions of the Social Security Act, when the governing board of the county or district in which the member is employed adopts by majority vote a resolution providing that this article shall be applicable to all members in such county or district who are subject to the federal system. The provisions of this article shall become fully effective and operative on the date specified in such resolution; provided, however, such resolution shall have received prior approval by majority affirmative vote of eligible members employed by the county or district in a referendum conducted in accordance with the provisions of Article 2, Chapter 2, Part 4, Division 5, of Title 2 of this code. Nothing in this article shall be construed as negating or in any way affecting the validity of a referendum vote conducted prior to the enactment of this article, whereby a majority of members employed by a county or district voted in favor of federal old age and survivors insurance coverage on a purely additive or supplemental basis.

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

§31800.1. San Mateo County; general or safety members; optional calculation of retirement allowance (San Mateo)

Notwithstanding any other provisions of law, the board of supervisors in a county of the 10th class as described by Sections 28031 may adopt, by majority vote, a resolution providing that:

(a) Any general member employed by the county or any district included within the membership of the county retirement association shall have the option, at any time prior to retirement, of having his retirement allowance for service rendered after the date of his exercising this option calculated to equal the following:

(1) The fraction of one-ninetieth of the first one thousand fifty dollars (\$1,050) monthly of the member's final compensation set forth in the table appearing in Section 31676.1 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-sixtieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.1 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

The retirement allowance payable for service rendered prior to the date of the member's election shall be computed in accordance with the provisions of Section 31676.1. The retirement allowance payable for service performed after the effective date of the member's election shall equal the total of paragraphs (1) and (2) of this subdivision.

Any member who elects to have his retirement allowance so calculated shall have the definition of "final compensation" in Section 31462 or Section 31462.2, whichever is applicable, applied at the date of retirement regardless of previous service under the provisions of Section 31462.1.

(b) Any safety member employed by the county or any district included within the membership of the county retirement association shall have the option, at any time prior to retirement, of having his retirement allowance for service rendered after the date of his

exercising this option calculated to equal the following:

(1) The fraction of one seventy-fifth of the first one thousand fifty dollars (\$1,050) monthly of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

The retirement allowance payable for service rendered prior to the date of the safety member's election shall be computed in accordance with provisions of Section 31664. The retirement allowance payable for service performed after the effective date of the safety member's election shall equal the total of paragraphs (1) and (2) of this subdivision.

Any safety member who elects to have his retirement allowance so calculated shall have the definition of "final compensation" in Section 31462 or Section 31462.2, whichever is applicable, applied at the date of retirement regardless of previous service under the provisions of Section 31462.1.

(c) Before permitting a member to exercise the option authorized by this section, the board of supervisors shall provide that member with a written explanation of the effect on the member's retirement benefits and contributions of exercising that option. No member may rescind his action after exercising the option authorized in this section.

(d) Any member who elects deferred retirement after becoming subject to the provisions of this section shall receive a retirement allowance determined in accordance with subdivision (a) or subdivision (b) of this section.

(e) Any member who exercises the option authorized in this section shall continue to contribute as provided for in Article 6 (commencing with Section 31620) or Article 6.8 (commencing with Section 31639), of this chapter, whichever is applicable, a lesser amount as determined by an actuary.

(f) Any member who exercises the option authorized in this section and who is also eligible and elects or has elected to receive credit in the retirement system for public service as provided in Section 31641.1 shall have the retirement allowance for such public service calculated as if he had not exercised the option authorized in this section.

(g) Any member who exercises the option authorized in this section and who is also eligible and elects to receive the benefits of Section 31641.5, 31652, or 31831.1 shall have the retirement allowance for that service calculated in accordance with subdivisions (a) or (b) of this section.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

Any additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is adopted shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

(Added by Stats. 1980, Ch. 442, Sec. 4)

§31800.5. Integration as to members employed by county or district; conversion to supplementation system

Whenever pursuant to the provisions of this article federal old age and survivors insurance provisions of the Social Security Act have been integrated as to members employed by a county or district, the relationship may be converted to a supplementation system under which the social security benefits shall be in addition to unintegrated retirement benefits. The conversion shall take place when the governing body of the county or district adopts by majority vote, a resolution providing that the conversion shall take place; provided, however, the resolution shall have received prior approval by majority affirmative vote of eligible members employed by the county or district in a referendum conducted in accordance with the provisions of Article 2 (commencing with Section 22300), Chapter 2, Part 4, Division 5 of Title 2 of this code. The conversion shall take place and become fully effective and operative on the date specified in the resolution.

In the event that the employees of the county or district are divided into more than one coverage group for purposes of the Social Security Act, the conversion may be with respect to all coverage groups or one or more coverage groups as the governing board may determine in the resolution.

(Added by Stats. 1969, Ch. 1329, Sec. 1)

§31801. Legislative intent; supersedure of inconsistent provisions; extension of federal system to policeman's and fireman's position

It is the intent of the Legislature that the enactment of this article shall authorize persons in positions covered by a retirement system pursuant to this chapter to participate in the federal old age and survivors insurance provisions of the Social Security Act without jeopardizing the continued maintenance of their local system.

To this end and notwithstanding any other provisions of this chapter, the provisions of this article, when made applicable by resolution of the governing board, shall supersede or modify any inconsistent provision in this chapter in its application to every member whose position is included in an agreement between the state and federal government for coverage under the old age and survivors insurance provisions of the Social Security Act.

The provisions of this chapter are not repealed by this article, however, and except as superseded or modified by this article in their application to members who are covered by old age and survivors insurance, they shall continue to be fully effective and operative.

Nothing in this article shall authorize the extension of the federal system to service in any policeman's or fireman's position covered by a separate retirement system unless all of the policemen or firemen are included as a unit without any division of their separate retirement system.

When federal benefits are to be extended by any fireman's or policeman's position pursuant to this part they shall vote separately from other members of such system in all cases without regard to their classification as miscellaneous members or otherwise, and notwithstanding Section 22009.1, such system shall constitute a separate retirement system with respect to the positions of policemen or firemen, or both, covered by the system.

(Amended by Stats. 1961, Ch. 1033, Sec. 2)

§31802. Federal agency defined

"Federal agency" means the Secretary of Health, Education and Welfare, or the predecessor or successor in functions to such officer.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31803. Federal system defined

“Federal system” means the old age and survivors insurance provisions of the Social Security Act.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31804. Reference to federal law as including amendments

Whenever reference is made to any federal law or regulation or part thereof, the reference applies to all amendments and additions now or hereafter made to such law.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31805.1. Recalculation of benefits

Effective with the approval of this section the service retirement allowances of those heretofore retired shall be recalculated as though Section 31805 had not been enacted.

(Amended by Stats. 1980, Ch. 676, Sec. 117)

§31806. Inapplicability of compulsory retirement provisions to certain members; retirement upon qualifying for federal benefits

The provisions of this chapter requiring retirement at age 65 or 70, whichever applies, shall not be applicable to any person who is a member on the effective date of this article when the application of such provision would preclude the member from qualifying for federal benefits, but such member shall be retired forthwith, as provided in Section 31671 or Section 31671.01¹, upon qualifying for such federal benefits.

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

¹Both repealed. See, now, Section 31671.05 for mandatory retirement provisions.

§31807. Minimum retirement allowances

The retirement allowance payable under Section 31808, Section 31808.1 or Section 31809¹ of this code, whichever is applicable, to a person who was a member on the effective date of this article in any county pursuant to this article if not fully insured for old age payments under the federal system at time of retirement shall be not less than that amount for which he would have been eligible if this article were not applicable to the member.

The retirement allowance payable under Section 31808, Section 31808.1 or Section 31809¹ of this code, whichever is applicable, to a person who was a member on the effective date of this article in any county pursuant to this article if fully insured for old age payments under the federal system at time of retirement shall not be less than an amount which, when added to the primary insurance amount payable to him under the federal system at time of retirement will equal the allowance which would otherwise be payable to the member under the provisions of this chapter if this article were not applicable to the member. If the member retires for service prior to retirement age under the federal system and the amount available to him under the provisions of Section 31810 is less than the allowance which would otherwise be payable to the member under the provisions of this chapter if this article were not applicable to the member then the allowance shall be increased to an amount not less than that which would otherwise be payable.

(Amended by Stats. 1961, Ch. 987, Sec. 2)

¹Repealed

§31808. Retirement allowance in certain counties; prior service; current service; computation of benefits (All counties except subdivision (b); subdivision (b) — Los Angeles)

(a) In any county or district subject to the provisions of Section 31676.1, 31676.11, 31676.13, or 31676.14, the retirement allowance payable for retirement service rendered prior to the effective date of the resolution mentioned in Section 31800 shall be computed in accordance with the provisions of Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable. Except as provided in subdivision (b), the retirement allowance with respect to service performed after May 31, 1957, shall equal the total of the following:

(1) The fraction of one-ninetieth of the first three hundred fifty dollars (\$350) monthly of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-sixtieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(b) With respect to persons who become members of a county retirement system after the effective date of the amendments to this section enacted at the 1979-80 Regular Session, the retirement allowance shall equal the following:

(1) The fraction of one-ninetieth of the first one thousand fifty dollars (\$1,050) monthly of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-sixtieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.1, 31676.11, 31676.13, or 31676.14, whichever is applicable, in the column applicable to the member's age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

This subdivision may be made applicable in any county of over six million population on the first day of the month after the board of supervisors of such county adopts by majority vote a resolution providing that this subdivision shall become applicable in such county.

(Amended by Stats. 1979, Ch. 21, Sec. 1, Effective April 5, 1979)

§31808.1. Retirement allowance in certain counties; law enforcement members; prior service; current service; computation of benefits

In any county or district subject to the provisions of Section 31676.1, and to which the provisions of Section 31470.6 are applicable, the retirement allowance for any member whose principal duties consist of active law enforcement as defined in Section 31470.6, and Section 31469.3 and those made eligible to safety membership by Section 31469.4 of the Government Code for service rendered prior to the effective date of the resolution provided in Section 31800 shall be computed in accordance with the provisions of Section 31664. The retirement allowance of any such member with respect to service performed after the effective date of the resolution shall equal the total of the following:

(a) The fraction of one seventy-fifth of the first three hundred fifty dollars (\$350) monthly of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(b) The fraction of one-fiftieth of any remaining portion of the member's final

compensation set forth in the table appearing in Section 31664 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(Amended by Stats. 1970, Ch. 821, Sec. 2)

§31808.2. Computation for service between effective date of article or resolution and date of return to active membership

Notwithstanding the provisions of Section 31808 and 31808.1, the retirement allowance with respect to service performed after the effective date of this article for allowances subject to Section 31808 and after the effective date of the resolution described in Section 31808.1 shall be computed on the basis of Section 31676.1 for the service, not subject to benefits under the federal system, between the effective date of this article or resolution, as such dates are set forth in Sections 31808 and 31808.1 and the date of return to active membership of members who separated from employment in any county subsequently to the aforesaid dates and who returned to the service of the same county.

(Added by Stats. 1965, Ch. 525, Sec. 1)

§31808.5. Retirement allowance for safety members in certain counties; compensation

In any county which has safety members as defined in Sections 31470.2 and 31470.4 subject, prior to January 1, 1962, to the provisions of this article, the board of supervisors may adopt the provisions of this section.

The retirement allowance for any safety member subject to this article for service rendered prior to the date of adoption of this article by a county board of supervisors shall be computed in accordance with the provisions of Section 31664. The retirement allowance of any such member, subject to this article, with respect to service performed after the effective date of adoption by the county of this article shall equal to the total of the following:

(a) The fraction of one seventy-fifth of the first three hundred fifty dollars (\$350) monthly of the member's final compensation set forth in the table provided for in Section 31664 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(b) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his age at retirement taken to the preceding quarter year multiplied by the number of years of creditable service.

The retirement allowance for any safety member who is not subject to this article shall be computed in accordance with the provisions of Section 31664.

Any member who becomes a safety member after the adoption date of this section shall be subject to the provisions of this article.

This section shall not apply to any safety member who is a member on date of adoption of this section unless within 60 days thereafter he files with the board a signed written statement expressing his desire to have the section apply to him.

Any member subject to the provisions of this section may elect deferred retirement pursuant to Article 9 (commencing with Section 31700) of this chapter.

(Amended by Stats. 1968, Ch. 755, Sec. 2)

§31808.6. Retirement allowance for safety members in certain counties; computation

(a) Notwithstanding any other provision of law, in any county or district first subject to the provisions of Section 31676.1 or 31695.1 on or after July 1, 1969, having members performing the duties of safety members as defined in Sections 31470.2 and 31470.4, if the

board of supervisors adopts this section and as to those members adopts or has already adopted the provisions of this article, then the retirement allowance of those safety members shall be computed according to the applicable provisions of this subdivision, as selected by the board of supervisors.

(1) The retirement allowance shall be computed according to the provisions of Section 31664 or 31664.1, and federal old age and survivors' insurance coverage shall be on an additive or supplemental basis.

(2) If Section 31664 applies, the retirement allowance shall equal the total of both of the following:

(A) The retirement allowance for service rendered prior to the effective date of the resolution specified in Section 31800 shall be computed in accordance with the provisions of Section 31664.

(B) The retirement allowance for service performed after the effective date of the resolution shall equal the total of both of the following:

(i) The fraction of one seventy-fifth of the first three hundred fifty dollars (\$350) monthly of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided in that section.

(ii) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(3) If Section 31664.1 applies, the retirement allowance shall equal the total of both of the following:

(A) The retirement allowance for service rendered prior to the effective date of the resolution specified in Section 31800 shall be computed in accordance with the provisions of Section 31664.1.

(B) The retirement allowance for service rendered after the effective date of the resolutions shall equal the total of both of the following:

(i) The fraction of one seventy-fifth of the first three hundred fifty dollars (\$350) monthly of the member's final compensation set forth in the table appearing in Section 31664.1 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided in that section.

(ii) Three percent of any remaining portion of the member's final compensation set forth in the table appearing in Section 31664.1 in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(b) Notwithstanding any other provision of law, in counties which have adopted the provisions of this section and have voted to apply the provisions of this chapter relating to safety members as provided by Section 31695.1, the retirement benefits as well as the contributions of eligible members subject to this article who do not elect pursuant to Section 31695.2 to come under the safety member provisions of this chapter, shall be the same as the retirement benefits and contributions of members other than safety members in the county.

(c) The retirement allowance for any safety member who is not subject to this article shall be computed in accordance with the provisions of Section 31664.

(d) Any member who becomes a safety member after the effective date of the selection of the method of computing the retirement allowance by the board of supervisors shall be subject to that selection and to the provisions of this article.

(e) Any member subject to the selection described in subdivision (d) made by the board

of supervisors may elect deferred retirement pursuant to Article 9 (commencing with Section 31700).

(Added by Stats. 1969, Ch. 767, Sec. 3)

(Amended by Stats. 2008, Ch. 164 (A.B. 3044), Sec. 11)

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

In any county or district, subject to Section 31676.12, which adopts or has already adopted the provisions of this article, the retirement allowance of members subject to Section 31676.12 shall be computed according to either the provisions of subdivision (a) or subdivision (b) of this section as selected by the board of supervisors.

(a) The retirement allowance for service rendered prior to the effective date of this article as specified in the resolution mentioned in Section 31800 shall be computed in accordance with the provisions of Section 31676.12. The retirement allowance of any member with respect to service performed after the effective date of this article as specified in the resolution mentioned in Section 31800 shall equal the total of the following:

(1) The fraction of one seventy-fifth of the first three hundred fifty dollars (\$350) monthly of the member's final compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service, or

(b) The retirement allowance shall be computed according to the provisions of Section 31676.12 and federal old age and survivors' insurance coverage shall be on an additive or supplemental basis.

(Amended by Stats. 1973, Ch. 55, Sec. 4)

§31808.8. San Diego County; alternative benefit formulas; resolution (San Diego)

The board of supervisors of a county of the third class may, by majority vote, adopt a resolution providing either or both of the following:

(a) That subdivision (b) of Section 31808 is applicable to persons who become members of the county retirement system after the effective date designated in the resolution and that persons who were subject to subdivision (a) of Section 31808 prior to that date may elect to have their retirement allowance for services rendered after that date computed in accordance with subdivision (b) of Section 31808.

(b) That an employee who is subject to subdivision (a) of Section 31808.7 may elect to have his retirement allowance computed, with respect to service rendered after the effective date designated in the resolution, in accordance with the following:

(1) The fraction of one seventy-fifth of the first one thousand fifty dollars (\$1,050) monthly of the member's final compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.12 in the column applicable to his age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(Added by Stats. 1981, Ch. 823, Sec. 1)

§31808.9. Retirement allowance in counties subject to Section 31676.17, 31676.18, or 31676.19; computation of benefits

In any county or district, subject to Section 31676.17, 31676.18, or 31676.19, that adopts or has already adopted the provisions of this article, the retirement allowance of members subject to Section 31676.17, 31676.18, or 31676.19 shall be computed according to either the provisions of subdivision (a) or subdivision (b) of this section as selected by the board of supervisors.

(a) The retirement allowance for service rendered prior to the effective date of this article as specified in the resolution mentioned in Section 31800 shall be computed in accordance with the provisions of Section 31676.17, 31676.18, or 31676.19, as applicable. The retirement allowance of any member with respect to service performed after the effective date of this article as specified in the resolution mentioned in Section 31800 shall equal the total of the following:

(1) The fraction of one seventy-fifth of the first three-hundred fifty dollars (\$350) monthly of the member's final compensation set forth in the table appearing in Section 31676.17, 31676.18, or 31676.19, as applicable, in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service as provided therein.

(2) The fraction of one-fiftieth of any remaining portion of the member's final compensation set forth in the table appearing in Section 31676.17, 31676.18, or 31676.19, as applicable, in the column applicable to his or her age at retirement taken to the preceding completed quarter year multiplied by the number of years of creditable service.

(b) The retirement allowance shall be computed according to the provisions of Section 31676.17, 31676.18, or 31676.19, as applicable, and federal old age and survivors' insurance coverage shall be on an additive or supplemental basis.

(Added by Stats. 2001, Ch. 782 (A.B. 616), Sec. 10)

§31810. Retirement before eligibility under federal system; modification of allowance; election; approval

A member who retires for service prior to the age of becoming eligible for retirement payments under the federal system and who at the time of retiring is fully insured under the federal system, may, with the approval of the Retirement Board, elect to have his retirement allowance increased prior to such eligible age and reduced after such age by amounts which have equivalent actuarial values. This modification is for the purpose of coordinating a member's retirement allowance with benefits receivable from the federal system.

(Amended by Stats. 1963, Ch. 642, Sec. 1)

§31811. Death of member making election; beneficiary's allowance

If a member who has elected the option provided in Section 31810 dies leaving a beneficiary entitled to an allowance based upon the allowance of the member, the beneficiary's allowance shall be based upon the allowance the member would have received had he not elected the option.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31812. Members' contributions (Los Angeles)

(a) Each member shall continue to contribute as provided for in Article 6 (commencing with Section 31620) or (in case of those members defined in Sections 31470.2, 31470.4 and 31470.6) Article 6.8 (commencing with Section 31639) of this chapter less an amount equal to one-third of that portion of such contribution which is payable with respect to the first three hundred fifty dollars (\$350) monthly wage, or in counties where the board of supervisors

pursuant to subdivision (b) of Section 31808.6 elects to compute the retirement allowance of safety members according to the provisions of Section 31664, each safety member shall make contributions as provided for in Article 6.8 of this chapter with respect to all of his monthly wage.

(b) With respect to persons who become members of a county retirement system after the effective date of the amendments to this section enacted at the 1979-80 Regular Session, each member shall contribute as provided for in Article 6 (commencing with Section 31620) or (in case of those members defined in Sections 31470.2, 31470.4 and 31470.6) Article 6.8 (commencing with Section 31639) of this chapter less an amount equal to one-third of that portion of such contribution which is payable with respect to the first one thousand fifty dollars (\$1,050) monthly wage, or in counties where the board of supervisors pursuant to subdivision (b) of Section 31806.6 elects to compute the retirement allowance of safety members according to the provisions of Section 31664, each safety member shall make contributions as provided for in Article 6.8 of this chapter with respect to all of his monthly wage.

This subdivision may be made applicable in any county of over six million population on the first day of the month after the board of supervisors of such county adopts by majority vote a resolution providing that this subdivision shall become applicable in such county.

(Amended by Stats. 1979, Ch. 21, Sec. 2, Effective April 5, 1979)

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

Each member subject to Section 31676.12 and subdivision (a) of Section 31808.7 shall continue to contribute as provided for in Article 6 (commencing with Section 31620) less an amount equal to one-third of that portion of such contribution which is payable with respect to the first three hundred fifty dollars (\$350) monthly wage, or in counties where the board of supervisors pursuant to subdivision (b) of Section 31808.7 elects to have the retirement allowance of members computed according to the provisions of Section 31676.12, each member shall make contributions as provided for in Section 31621.2 with respect to all his monthly wage.

(Added by Stats. 1972, Ch. 425, Sec. 5)

§31813. Federal contributions; simultaneous effective date of article and coverage under federal system; validation of refunds

If this article is effective simultaneously with the effective date of coverage of members under the federal system, the employee and employer federal contributions required with respect to salaries and wages paid for services rendered after the effective date of coverage of such member under the federal system and prior to the time that federal contributions are the first deducted from the salaries and wages of such members shall be paid (1) the employee contribution by the county from the member's accumulated contributions to the extent that such retroactive costs do not exceed one-third of that portion of the member's contributions under this chapter which is payable with respect to the first three hundred fifty dollars (\$350) monthly wage for such retroactive period (2) the employer contributions from contributions made by the county or district during such retroactive period.

If the member's federal contributions payable for such period is greater than the accumulated contributions resulting from one-third of that portion of the member's contributions under this chapter during such period, which is payable with respect to the first three hundred fifty dollars (\$350) monthly wage, the difference shall be paid by the member to the county or district in such manner as may be determined by the Retirement Board.

If the federal contributions payable by the member for such period is less than

the accumulated contributions resulting from one-third of that portion of the member's contributions which are payable with respect to the first three hundred fifty dollars (\$350) monthly wage, pursuant to the provisions of this chapter for such period, the county or district shall refund the amount of such excess to the member.

All refunds made under this section prior to the effective date of the amendments to this section enacted at the 1959 Regular Session of the Legislature are hereby validated and confirmed.

(Amended by Stats. 1959, Ch. 703, Sec. 2, Effective May 29, 1959)

§31814. Federal contributions; article effective subsequent to effective date of coverage under federal system

If this article is effective subsequent to the effective date of the coverage of members under the federal system the employees' federal contributions required of members with respect to salary and wages paid for service rendered after the effective date of coverage of such member under the federal system and prior to the time that federal contributions are first deducted from the salary or wage of such members, shall be paid to the county or district by the member in such manner as may be determined by the Retirement Board.

(Added by Stats. 1957, Ch. 663, Sec. 1, Effective May 31, 1957)

§31815. Deferred retirement; determination of allowance

Any member who elects deferred retirement after becoming subject to the provision of this article shall receive a retirement allowance determined in accordance with Section 31808, 31808.1, 31808.6, or 31809¹, whichever is applicable.

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

¹Repealed

§31816. Redeposit of accumulated contributions previously withdrawn; amount

In the event that any member who is required to or who has the right to elect to redeposit accumulated contributions previously withdrawn, elects so to do, the amount of such redeposit shall be the amount of his previously withdrawn contributions adjusted in accordance with the provisions of Section 31813.

(Added by Stats. 1959, Ch. 1193, Sec. 4)

§31816.1. Credit for service; modification

If, after the adoption of this article by a county, a member is permitted by other sections of this act to obtain credit for service by making contributions into this system for previous service, that part of such contributions applicable to the period of time after the adoption of this article by the county shall be modified in accordance with Section 31812.

(Added by Stats. 1959, Ch. 1193, Sec. 5)

§31817. Contra Costa County; inapplicability of article; exception (Contra Costa)

This article shall not be applicable to any member subject to Section 31751 except with respect to the member's service prior to the date such section was made applicable to the member.

(Added by Stats. 1980, Ch. 58, Sec. 18, Effective April 4, 1980)

Article 14

Subrogation

(Article 14 added by Stats. 1947, Ch. 424, Sec. 1)

§31820. Recovery by board against third party tortfeasor; application of Workmen's Compensation Law

If benefits are payable under this chapter because of an injury to, or the death of, a member of the retirement association, and such injury or death is the proximate consequence of the act of any person other than his employer, the board on behalf of the retirement association may recover from such person an amount which is the lesser of the following:

- (1) An amount which is equal to one-half of the actuarial equivalent of the benefits for which the association is liable because of such injury or death; or
- (2) An amount which is equal to one-half of the remaining balance of the amount recovered after allowance of that amount which the employer or its insurance carrier have paid or become obligated to pay. The right shall be determined under the subrogation provisions of any workmen's compensation law.

(Amended by Stats. 1965, Ch. 1340, Sec. 1)

§31821. Joinder of retirement association with employer or insurer

The retirement association may join with the employer or its compensation insurance carrier in any proceeding under this article.

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

§31822. Application of amounts recovered from third party tortfeasor

Any amount recovered by any of the parties shall be applied, first, to the amounts which the employer or its insurance carrier have paid or become obligated to pay, and second, to the amounts to which the retirement association is entitled under the provisions of Section 31820 hereof.

(Amended by Stats. 1965, Ch. 1340, Sec. 2)

§31823. Commencement of actions; time at which liability of retirement system fixed

Actions brought by the board under this article shall be commenced within three years after the liability of the retirement system to pay benefits is fixed.

Liability of the retirement system is fixed at the time the board approves the payment of benefits under this chapter.

(Added by Stats. 1981, Ch. 159, Sec. 1)

Article 15

Reciprocal Benefits

(Article 15 added by Stats. 1961, Ch. 1693, Sec. 10)

§31830. Legislative intent

The provisions of this article are intended to encourage career public service by granting reciprocal retirement benefits to members who are entitled to retirement rights or benefits from two or more retirement systems established under this chapter or from a retirement system established under this chapter and the Public Employees' Retirement System, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, and to delineate the financial obligations of each system and related political entity so that no system or political entity shall be liable for more than its just financial obligation.

(Amended by Stats. 1968, Ch. 1046, Sec. 3)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 6)

§31831. Authority to elect deferred retirement; rescission; withdrawal of contributions

Any member, whether over or under the minimum age of service retirement, who leaves county service and within 90 days or six months if Section 31840.4 applies thereafter becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, regardless of the amount of county service, may elect deferred retirement pursuant to Article 9 of this chapter, except that he or she may not, after that election, rescind the election or withdraw any of his or her accumulated contributions while a member of such other system.

(Amended by Stats. 1969, Ch. 122, Sec. 18)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 7)

§31831.1. Election by member leaving county service and becoming member of another system to leave contributions on deposit

Any member who left county or district service on or before December 31, 1971, and became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System, who did not elect to, or was not eligible to, leave his contributions on deposit pursuant to Article 9 (commencing with Section 31700) may now elect to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) by redepositing in the retirement fund of the county or district he left the amount of accumulated contributions and interest he withdrew from such retirement fund plus regular interest thereon from date of separation.

Any such member whose accumulated contributions are on deposit as provided in this section and any other member who left county or district service on or before December 31, 1971, who became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System and who elected to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) shall be eligible for the benefits provided in this article, and for purposes of such benefits shall be deemed to have entered membership in such other system within 90 days of his separation from county or district employment. The deferred retirement allowance for such member shall be determined in accordance with the provisions of this chapter applicable to members retiring

directly from county employment on the date of his retirement. Any member who qualifies for a reduced age at entry pursuant to this section shall be entitled to use such age only from and after the date he completes the redeposit as provided in this section or, if he elected to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700), from and after the date he notifies the board in writing that he desires the benefits of this section. This section shall not apply to members who are retired or who are not in service of an employer making him a member of a retirement system established under this chapter or of the Public Employees' Retirement System.

Unless this chapter expressly provides to the contrary the retirement allowance received by a member pursuant to this section shall be calculated based upon the laws pertaining to the retirement system of such district or county as of the date of retirement and not the laws pertaining to such system as of the date the member first left county or district service.

This section shall not be applicable to any member entering service after December 31, 1977.

(Amended by Stats. 1976, Ch. 629, Sec. 2)

§31831.2. Member leaving service and becoming member in another county or of Public Employees' Retirement System; election to leave contributions on deposit; redeposit; eligibility for benefits; applicability of section

Any member who left county or district service on or before December 31, 1974, and became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System, who did not elect to, or was not eligible to, leave his or her contributions on deposit pursuant to Article 9 (commencing with Section 31700) may now elect to leave his or her accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) by redepositing in the retirement fund of the county or district he or she left the amount of accumulated contributions and interest he or she withdrew from the retirement fund plus regular interest thereon from date of separation.

Any such member whose accumulated contributions are on deposit as provided in this section and any other member who left county or district service on or before December 31, 1974, who became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System and who elected to leave his or her accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) shall be eligible for the benefits provided in this article, and for purposes of these benefits shall be deemed to have entered membership in the other system within 90 days, or six months if Section 31840.4 applies, of his or her separation from county or district employment. The deferred retirement allowance for the member shall be determined in accordance with the provisions of this chapter applicable to a member retiring directly from county employment on the date of his or her retirement. Any member who qualifies for a reduced age at entry pursuant to this section shall be entitled to use that age only from and after the date he or she completes the redeposit as provided in this section or, if he or she elected to leave his or her accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700), from and after the date he or she notifies the board in writing that he or she desires the benefits of this section. This section shall not apply to members who are retired or who are not in service of an employer making him or her a member of a retirement system established under this chapter or of the Public Employees' Retirement System.

Unless this chapter expressly provides to the contrary the retirement allowance received by a member pursuant to this section shall be calculated based upon the laws pertaining to the retirement system of the district or county as of the date of retirement and not the laws pertaining to the system as of the date the member first left county or district service.

This section shall not be applicable to any member entering service after December 31, 1979.

This section shall apply only in a county of the first class, as established by Sections 28020 and 28022 but shall not be operative in a county until adopted by resolution of the board of supervisors.

(Added by Stats. 1982, Ch. 991, Sec. 3)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 8)

(Amended by Stats. 2005, Ch. 22 (S.B. 1108), Sec. 93)

§31831.3. Election to redeposit contributions on deposit for active members of retirement systems; rights of former members; application of section; criteria to determine eligibility of former members

(a) Notwithstanding Sections 31831.1 and 31831.2, any former member who left county or district service and became a member of a retirement system established under this chapter in another county or district, or a reciprocal retirement system, or a retirement system established under the Public Employees' Retirement Law, and who did not elect to, or was not eligible to, leave his or her contributions on deposit pursuant to Article 9 (commencing with Section 31700), may elect to redeposit those contributions if he or she is an active member of a county retirement system, the Public Employees' Retirement System, or another reciprocal retirement system at the time of redeposit. A former member may exercise this right by redepositing in the retirement fund of the county or district he or she left, the amount of accumulated contributions and interest that he or she withdrew from that retirement fund plus regular interest thereon from the date of separation.

(b) A former member who redeposits under this section shall have the same rights as a member who elected to leave his or her accumulated contributions on deposit in the fund. The deferred retirement allowance of the member shall be determined in accordance with the provisions of this chapter applicable to a member retiring directly from county employment on the date of his or her retirement.

(c) A former member who redeposits under this section shall be entitled to a reduced age at entry, commencing with contributions payable the first day of the month following the date the association receives notice of the redeposit, only to the extent provided in Section 31833.

(d) This section does not apply to the following:

(1) A member or former member who is retired.

(2) A former member who is not in the service of an employer making him or her a member of a retirement system established under this chapter in another county or district, a retirement system established under the Public Employees' Retirement Law, or another reciprocal retirement system.

(e) This section shall only apply to either of the following:

(1) A former member who is in the service of an employer as an officer or employee of a law enforcement agency or fire department whose principal duties consist of active law enforcement or firefighting and prevention service, but excluding one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(2) A former member who is in the service of an employer and seeks to redeposit contributions for past employment as an officer or employee of a law enforcement agency

or fire department in this system whose principal duties consisted of active law enforcement or firefighting and prevention service, but excluding one whose principal duties were those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions did not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee was subject to occasional call, or was occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(f) For purposes of this section, a “former member” is a member who left county or district service and who did not elect to, or was not eligible to, leave his or her contributions on deposit pursuant to Article 9 (commencing with Section 31700).

(g) Each retirement system shall establish criteria to determine the eligibility of a former member to redeposit contributions, and the amount of contributions that may be redeposited, pursuant to this section in those cases in which the system no longer maintains complete records with respect to the former member.

(Added by Stats. 2002, Ch. 883 (A.B. 2766), Sec. 3)

§31832. Data and information on employee’s status

The board shall, on request of the Board of Administration of the Public Employees’ Retirement System, the board of retirement of a retirement system established in another county under this chapter, the Board of Retirement of the State Teachers’ Retirement System, or the board of retirement of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees’ Retirement System subject to the conditions of Section 31840.2, supply information and data necessary for the administration of such other system as it is affected by membership in and service credited under this system.

(Amended by Stats. 1968, Ch. 1046, Sec. 6)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 9)

§31833. Age at entry

For the purpose of this article and Articles 6 and 6.8 of this chapter, age at time of entrance into the retirement system for a person who enters within 90 days, or six months if Section 31840.4 applies, of last rendering service as a member of the Public Employees’ Retirement System, another retirement system established under this chapter, the State Teachers’ Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees’ Retirement System subject to the conditions of Section 31840.2, and who retains his membership in such other system or systems, shall be his age at entry into the first such other system.

(Amended by Stats. 1968, Ch. 1046, Sec. 7)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 10)

§31833.1. Member’s age at time of entrance into retirement system; redeposit or contributions

For the purpose of this article and Article 6 (commencing with Section 31620) and Article 6.8 (commencing with Section 31639) of this chapter, a member’s age at the time of entrance into the retirement system for a person who, after entering, redeposits the contributions he or she withdrew from the Public Employees’ Retirement System, and who otherwise meets all requirements for reciprocity under this article by reason of his or her membership in the Public Employees’ Retirement System, shall be his or her age at entry into the Public Employees’ Retirement System, commencing with the pay period immediately following receipt of confirmation from the Public Employees’ Retirement System that all withdrawn contributions have been redeposited.

(Added by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 11)

§31834. Time of becoming safety members

Notwithstanding Section 31558 and regardless of age at entry into the system in counties subject to the provisions of Section 31676.1 and in counties electing pursuant to Section 31695.1, a person shall become a safety member on the first day of the calendar month following his entrance into service in a position the principal duties of which are defined in Sections 31470.2, 31470.4 or 31470.6, if such first day of the calendar month is within 90 days, or six months if Section 31840.4 applies of last rendering active police or fire suppression or lifeguard work as a member of the Public Employees' Retirement System or a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, and the person retains his membership in such other system.

(Amended by Stats. 1968, Ch. 1046, Sec. 8)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 12)

§31835. Average earnable compensation; computation; conditions

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

(1) The period intervening between active memberships in the respective systems does not exceed 90 days, or 6 months if Section 31840.4 applies. That period shall not include any time during which the member was prohibited by law from becoming a member of the system of another county.

Notwithstanding anything in this chapter to the contrary, the 90-day or 6-month restriction referred to in this section or any other provision of this chapter effecting deferred retirement shall not be applicable to any members who left county or district service prior to October 1, 1949, and subsequently redeposited.

(2) He or she retires concurrently under both systems and is credited with the period of service under that other system at the time of retirement. The provisions of this section shall be applicable to all members and beneficiaries of the system.

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 13)

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

§31835.01. Retroactive extension of benefits; subsequent redeposit of contributions

Section 31835 shall be retroactively applied so as to extend the benefits thereof to every active and retired member and beneficiary who left county or district service prior to October 1, 1949, and subsequently redeposited his contributions in the system in respect to all payments for time after the effective date of his retirement and prior to the effective date of this section as well as to payments for time after the effective date of this section.

(Added by Stats. 1972, Ch. 195, Sec. 1)

§31835.02. Eligibility to retire at age 50; ineligibility to retire from other retirement systems (Alameda County)

Notwithstanding any other provision of this part, Section 31835 shall also apply to any member who was a member of a retirement system established under this chapter and who

subsequently becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, providing the period intervening between the periods for which active service was credited does not exceed 90 days, or six months if Section 31840.2 applies, and the member retires concurrently under both systems and is credited with the periods of service at the time of retirement.

This section shall only be operative in any county of the fourth class as described in Sections 28020 and 28025 if it is adopted by a majority vote of the board of supervisors.

(Added by Stats. 1998, Ch. 116 (A.B. 2763), Sec. 3)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 14)

(Amended by Stats. 2001, Ch. 159 (S.B. 662), Sec. 118)

§31835.1. Member eligible to retire at age 50 or required to retire because of age who cannot retire concurrently from Public Employees' Retirement System or system in another county

Notwithstanding the provisions of Sections 31835 and 31836, a member of a retirement system established under this chapter who is eligible to retire at age 50 pursuant to Section 31672, or who is required to retire because of age while a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, but who cannot retire concurrently from the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, shall be entitled to have his final compensation and service determined under Sections 31835 and 31836 as if he had retired concurrently under such other system.

(Amended by Stats. 1972, Ch. 1344, Sec. 2, Effective December 22, 1972)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 15)

§31836. Service; credit for service

"Service," solely for purposes of qualification for payment of benefits and retirement allowances, shall also include service as an employee of the state or a contracting agency under the Public Employees' Retirement System or of another county having a retirement system established under this chapter, or as a member of the State Teachers' Retirement System, or as a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, if the compensation for such service constitutes compensation earnable by a member under Section 31835 of this part.

No credit shall be granted in this retirement system for service for which the member has received credit in another retirement system or for which he is presently receiving a retirement allowance from another retirement system.

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

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

§31836.1. "Service" defined; operative date

"Service," for the purpose of qualifying members for the discontinuance of contributions pursuant to Section 31625.2, shall also include service as an employee of the state, a contracting agency under the Public Employees' Retirement System, another county having a retirement system established under this chapter, or any other public agency if the compensation for the service constitutes compensation earnable by a member under Section 31835.

This section shall become operative on January 1, 1988.

(Repealed (by Sec. 1) and added by Stats. 1982, Ch. 202, Sec. 2, Operative January 1, 1988, by its own provisions)

§31836.2. "Service" defined; 30 year cancellation of contributions for safety members (Los Angeles)

(a) "Service," for the purpose of qualifying members for the discontinuance of contributions pursuant to Section 31664, 31664.1, or 31664.2 shall also include service as an employee of the state, a contracting agency under the Public Employees' Retirement System, another county having a retirement system established under this chapter, or any other public agency if the compensation for the service constitutes compensation earnable by a member under Section 31835.

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

(c) This section is declaratory of existing law.

(Added by Stats. 2008, Ch. 164 (A.B. 3044), Sec. 12)

§31837. Members leaving accumulated contributions on deposit; eligibility; conditions

Any member who elects, pursuant to Section 31700 and 31832, to leave his accumulated contributions on deposit may be retired for disability, regardless of age or length of service, and receive a disability retirement allowance under this article based on the service credited to him at the time of retirement during any period thereafter in which he receives a disability retirement allowance under the Public Employees' Retirement System or a retirement system established under this chapter in another county, subject to the following conditions:

(1) That such allowance shall not be paid if the period intervening between the last service credited under this system and his becoming a member in such other system exceeds 90 days.

(2) That if the member is retiring for nonservice-connected disability, and, if a safety member has not attained age 55, or if a nonsafety member has not attained age 65, his retirement allowance shall be as calculated pursuant to Section 31838.

(3) That such allowance shall be an annuity which is the actuarial equivalent of the member's accumulated contributions when retirement under the other system is for disability arising out of and in the course of employment subject to such other system.

(Amended by Stats. 1968, Ch. 1046, Sec. 11)

§31837.1. Election to leave accumulated contributions on deposit; retired for disability and receipt of disability retirement allowance (Contra Costa)

Notwithstanding Sections 31837 and 31838, any member covered under Section 31751 who elects, pursuant to Sections 31700 and 31832, to leave accumulated contributions on deposit may be retired for disability and receive a disability retirement allowance under this section during any period hereafter in which the member receives a disability retirement allowance under the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System or a retirement

system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, subject to all of the following conditions:

(a) That such allowance shall not be paid if the period intervening between the last service credited under this system and becoming a member in such other system exceeds six months.

(b) That, if the member is retiring for non-service-connected disability, the disability requirements shall be that of the other system and the member's retirement allowance shall be based on the other system's disability benefit formula. The disability benefit received in the county shall be calculated as if all the member's service was in the other system but then prorated using the ratio of service in this county to the total service in both systems.

(c) That, if the member is retiring for disability arising out of and in the course of employment subject to such other system, the allowance to the member shall be an annuity which is the actuarial equivalent of the member's accumulated contributions at the time of retirement.

(Added by Stats. 1980, Ch. 58, Sec. 19, Effective April 4, 1980)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 17)

§31838. Retirement allowance; computation of amount

Every safety member under age 55 years and every other member under age 65 years who is retired for nonservice-connected disability and who is retired simultaneously under a disability retirement allowance from the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a retirement allowance equal to the greater of the following amounts;

(1) The sum to which he would be entitled as service retirement; or

(2) A sum which shall consist of:

(a) An annuity which is the actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) If, in the opinion of the board, his disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his part, a disability retirement pension purchased by contributions of the county or district, all computed as provided in Sections 31727 or 31727.2.

(Amended by Stats. 1968, Ch. 1046, Sec. 12)

§31838.5. Members with service credits in more than one entity; disability benefit amount

No provision of this chapter shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance, whether service connected or nonservice connected to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.

In cases of service-connected disability allowances only, the limitation on disability allowances provided for in this section shall apply to service-connected disability allowances payable to those who, after being employed with another county or an entity within the Public Employees' Retirement System, become employed by a second public entity on or after January 1, 1984. Each entity shall calculate its respective obligations based upon the member's service with that entity and each shall adjust its payment on a pro rata basis.

(Amended by Stats. 1984, Ch. 767, Sec. 1)

§31839. Death before retirement; death benefit

Upon the death before retirement of a member, while in service as a member of the Public Employees' Retirement System or a retirement system established pursuant to this chapter in another county, who has made an election pursuant to Section 31700 and 31832, the death benefit provided in Section 31781 payable by the system from which he elected deferred retirement shall consist of:

(a) When death is not the result of a disease or injury arising out of and in the course of employment, the amount of such death benefit shall not exceed an amount which when added to the death benefit payable for the member under such other system will equal the total of the accumulated contributions to both systems plus 50 percent of the annual compensation earnable by the deceased during the 12 months immediately preceding his death.

(b) When death is the result of disease or injury arising out of and in the course of his employment as a member of such other system, such death benefit shall consist solely of the member's accumulated contributions.

(Amended by Stats. 1968, Ch. 1046, Sec. 13)

§31840. Applicability of death benefit provisions to certain counties

The death benefit provisions of paragraph (a) of Section 31839 shall be subject to the provisions of Sections 31765, 31765.1, 31781.1 and 31781.2 in those counties where these sections are applicable. In all calculations under these sections only the retirement allowances which would be payable by the system from which the member elected deferred retirement shall be considered.

The provisions of Section 31784 shall apply to the death benefits provided by paragraphs (a) and (b) of Section 31839.

(Added by Stats. 1961, Ch. 1693, Sec. 10)

§31840.01. Contra Costa County; death benefit (Contra Costa)

Notwithstanding Section 31840, upon the death before retirement of a member covered under Section 31751, while in service as a member of a retirement system established pursuant to this chapter in another county, who has made an election pursuant to Section 31700 and 31831, the death benefit provisions of paragraph (a) of Section 31839 shall be subject to the provisions of Sections 31765, 31765.1, 31781.1, and 31781.2 in such other system where these sections are applicable. In all calculations under these sections, the death benefit received from this county shall be calculated as if all of the member's service was in the other system but then prorated using the ratio of service in this county to the total service in both systems. The provisions of Section 31784 shall apply to the death benefits provided by subdivisions (a) and (b) of Section 31839.

(Added by Stats. 1980, Ch. 58, Sec. 20, Effective April 4, 1980)

§31840.1. University member; applicability of provisions

The provisions of this article extending rights to a member of a county retirement system established under this chapter or subjecting him to any limitation, by reason of his membership in the Public Employees' Retirement System, shall apply in like manner and under like conditions to said member by reason of his membership in any retirement system maintained by the Regents of the University of California, provided said member enters any retirement system maintained by said regents pursuant to an agreement made on or after January 1, 1965, between said regents and a county making provision for the operation by said regents of all or any part of the hospital facilities of that county or the transfer of title to such a hospital to the regents and for reciprocal university retirement system rights and limitations

substantially comparable to those prescribed by this article.

(Amended by Stats. 1972, Ch. 709, Sec. 3)

§31840.2. Extension of rights or subjecting member to limitation by reason of membership in Public Employees' Retirement System

The provisions of this article extending rights to a member of a county retirement system established under this chapter or subjecting him or her to any limitation by reason of his or her membership in the Public Employees' Retirement System shall apply in like manner and under like conditions to a member by reason of his or her membership in any retirement system established under Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 with respect to which an ordinance complying with Section 45310.5 has been filed with and accepted by the board or by reason of his or her membership in a retirement system established by or pursuant to the charter of a city or city and county or by any other public agency of this state which system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in a system established under this chapter and with respect to which the governing body of such city, city and county or public agency and the board have entered into agreement pursuant to Section 20351. This section shall apply only to a member whose termination and subsequent reentry into employment resulting in a change in membership from a system established under this chapter to such other system or from such other system to a system established under this chapter occurred after such acceptance or determination by the board; provided, however, that provisions relating to computation of final compensation shall apply to any other member if such provision would have applied had the termination and entry into employment occurred after such acceptance or determination by the board.

As used in this section, "board" means the Board of Administration of the Public Employees' Retirement System.

(Amended by Stats. 1970, Ch. 837, Sec. 2)

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 18)

§31840.3. Extension of rights to person who terminated state employment on or after June 30, 1971, and became permanent county employee on or before January 4, 1972

The provisions of this chapter extending rights to a member of a county retirement system established under this chapter by reason of his membership in the Public Employees' Retirement System shall also apply to members who terminated state employment on or after June 30, 1971, but because of county budget problems were not employed in the permanent positions to which they would otherwise have been assigned and did not become permanent county employees until on or before January 4, 1972.

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

(Added by Stats. 1974, Ch. 1029, Sec. 2)

§31840.4. Rights conditioned upon reemployment prior to termination of membership; length of time; applicability of section

Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within 90 days of termination of employment covered by a system under this chapter or another retirement system, with respect to such reemployment which occurs on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of

the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

(Amended by Stats. 1976, Ch. 1420, Sec. 3.5)

§31840.5. Extension of rights to certain former state employees employed by district

The provisions of this chapter extending rights to a member of a county retirement system established under this chapter or subjecting him to any limitation, by reason of his membership in the Public Employees' Retirement System shall also apply to members who terminated state employment and became employees of a district within six months of such termination and who were employees of such district at the time that the district became subject to the county retirement system. Any change in a member's contribution rate shall become effective on January 1, 1977, and a member whose rate is reduced shall not be entitled to any payment with respect to his rate of contribution prior to that date.

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

(Added by Stats. 1976, Ch. 701, Sec. 1)

§31840.6. Elected officer members who become members of other system upon commencement of other elective office; maximum break in service

Whenever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within six months of termination of membership in a system under this chapter or another retirement system, such period shall be one year rather than six months if the member was an elective officer and becomes a member of a system established under this chapter upon commencement of service in another elective office on and after January 1, 1977.

This section shall not be applicable in any county until adopted by the board of supervisors nor until the other employer in a reciprocal system elects a similar provision.

(Added by Stats. 1976, Ch. 1315, Sec. 2)

§31840.7. Rights conditioned upon reemployment within specified period following termination; contingent operation

Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within a specified period after termination of employment covered by a system under this chapter or another retirement system, the period shall be one year in the case of any member who was reemployed on or after January 1, 1989, and whose termination of employment was due to layoff because of, a lack of work, a lack of funds, or a reduction in workforce.

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

(Added by Stats. 1990, Ch. 595, Sec. 1)

§31840.8 Application of chapter provisions; State Teachers' Retirement System Defined Benefit Plan members; Judges' Retirement System and Judges' Retirement System II

The provisions of this chapter extending rights to a member of a county retirement system established under this chapter by reason of his or her membership in the Public Employees' Retirement System shall also apply to members of the State Teachers' Retirement

System Defined Benefit Plan, the Judges' Retirement System, and the Judges' Retirement System II.

(Added by Stats. 1998, Ch. 1077 (S.B. 610), Sec. 4)

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

Article 15.5

Survivors' Allowances

(Article 15.5 added by Stats. 1961, Ch. 1591, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31841)

§31841. Operative effect as to counties

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

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31841.1. Applicability to members subject to Federal act

This article shall not be applicable to any member who because of his county service is subject to the federal old age and survivors insurance provisions of the Federal Social Security Act.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31842. Eligible spouse defined

As used in this article "eligible spouse" means an individual who is caring for one or more of the children (as defined in Section 31843) of a deceased member and who is:

(a) The widow or widower of such deceased member, or

(b) The divorced former spouse of such deceased member, from whom he or she was receiving not less than one-half of his or her support at the time of his or her death.

(Amended by Stats. 1976, Ch. 1436, Sec. 26)

§31843. Child defined

As used in this article "child" means a member's child who is dependent upon such member at the time of his death and while such child is unmarried and:

(a) Under 18 years of age, or

(b) Whether under or over 18 years of age, totally disabled and such disability occurred prior to such child attaining age 18 years.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31844. Parent defined

As used in this article "parent" means:

The father or mother of the deceased member who at the time of the death of such member was not less than 62 years of age and was receiving not less than one-half of his or her support from the member, and who has not remarried since the member's death.

(Amended by Stats. 1976, Ch. 1436, Sec. 27)

§31845. Waiver of death benefit by eligible spouse; survivor's allowance

Upon the death of a member prior to retirement who was a member continuously for

not less than 18 months immediately prior to his death, survived by an eligible spouse, if such eligible spouse waives the amount, if any, payable as a death benefit pursuant to Section 31781, such eligible spouse shall be paid a monthly survivor's allowance equal to the sum, based upon the member's compensation at the time of his death and the number of children for which such eligible spouse is caring, specified in Section 31849 minus the amount to which such eligible spouse is entitled pursuant to Section 31765, 31765.1, 31781.1, 31781.2, or 31787.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31846. Custodian's or guardian's waiver of death benefit; survivor's allowance to children

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to his death and who is survived by one or more children, during such time as no eligible spouse is entitled to a survivor's allowance pursuant to this article, if the father or mother having custody or guardian of such child or children waives the amount, if any, payable as a death benefit pursuant to Section 31781, such child or children shall be entitled to a monthly survivor's allowance equal to the sum, based upon the member's compensation at the time of his death and the number of children, specified in Section 31849 minus the amount to which such children are entitled pursuant to Section 31765, 31765.1, 31781.1, 31781.2, or 31787.

(Amended by Stats. 1980, Ch. 676, Sec. 118)

§31847. Division of survivor's allowance to children

The monthly survivor's allowance in the case of two or more children entitled thereto shall be divided equally between them.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31848. Survivor's allowance to parents

Upon the death of a member prior to retirement who was a member continuously for not less than 10 years immediately prior to his death, who is survived by one or both parents, if no death benefit is paid to anyone pursuant to Section 31781 other than the member's widow, widower, or children, such parent, or both of such parents shall each be entitled to a monthly survivor's allowance equal to the sum, based upon the member's compensation at the time of his death, specified in Section 31849.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31849. Table of survivors' allowances

Monthly survivors' allowances shall be based upon the following table:

Member's survivors	Monthly allowances
Surviving spouse caring for one child	\$591.80
Surviving spouse caring for two or more children	\$690.40
One child only	\$295.90
Two children only	\$581.80
Three or more children	\$690.40
Widow or widower age 62 (no child)	\$327.10
Each of two dependent parents at age 62	\$295.90
Sole dependent parent at age 62	\$325.50
Lump sum payment	\$255.00

(Amended by Stats. 1974, Ch. 1359, Sec. 1)

§31850. Lump sum supplemental survivorship benefit

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to his death survived by a widow or widower with whom he was living at the time of his death, the retirement system shall pay to such widow or widower in addition to all other payments due, if any, to such widow or widower a lump sum supplemental survivorship benefit of two hundred fifty-five dollars (\$255). If such member is not survived by such a widow or widower, the retirement system shall apply such lump sum supplemental survivorship benefit to reimburse the person who paid the funeral expenses of such member to an amount not to exceed two hundred fifty-five dollars (\$255).

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31851. Amount of additional contributions

In addition to the contributions required elsewhere in this chapter there shall be deducted from the salary or wages of each member (to finance the costs of the benefits provided in this article) an amount specified in the regulations of the board. The board shall fix the additional contributions of members at amounts which it finds will pay one-half of the cost of the survivors' benefits and lump sum supplemental survivorship benefit provided for in this article. Unless and until such regulations otherwise provide such amount shall equal eighty-eight cents (\$0.88) per month for safety members and sixty-eight cents (\$0.68) per month for all other members.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31852. Additional deductions not accumulated contributions or refundable

The amounts deducted pursuant to Section 31851 shall not be considered to be a portion of a member's accumulated contributions and shall not be refunded to a member upon termination of service, or for any other reason.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

Article 15.6

Survivors' Allowances

(Article 15.6 added by Stats. 1974, Ch. 415, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31855)

§31855. Legislative intent

It is the intent of the Legislature to provide by this article a means by which any county which has provided all or any of officers and employees with both retirement benefits pursuant to this chapter and federal social security benefits on a nonintegrated basis may provide the benefits set forth herein as an alternative to survivorship benefits under social security. Accordingly, this article shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote and specifying the class or classes of employees to which it applies, make the provisions of this article applicable in such county, and a majority of the members of the affected class or classes voting at an election held during 1974 with more than 50 percent of the members participating, favor the termination of supplemental survivorship benefits under social security. Any such resolution may specify a date subsequent to the date of adoption as the operative date for implementation of this article.

(Amended by Stats. 1974, Ch. 1000, Sec. 2, Effective September 23, 1974)

§31855.1. Inapplicability to retired or deferred retirement status members; reentry into employment

This article shall not be applicable to any member who has retired or been placed in a deferred retirement status prior to the date this article becomes operative in any county; provided, however, that if such member reenters county employment on a full-time basis subsequent to the operative date of the article, it shall become applicable to such member.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.2. Adoption of enabling resolution

Adoption of an enabling resolution by a board of supervisors shall make the provisions of this article applicable only to officers and employees of that county. If the governing board of any special district whose employees are within the retirement system of that county desire to include their employees within the coverage of this article, they shall do so by adoption of a resolution so to do by a majority of all of the members of the board.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.3. Child

As used in this article "child" means a member's child who is dependent upon such member at the time of the member's death and while such child is unmarried and:

- (a) Under 18 years of age, or
- (b) Whether under or over 18 years of age, totally disabled and such disability occurred prior to such child attaining age 18 years, or
- (c) Eighteen years of age or over, but has not attained the age of 22 years, and is enrolled as a full-time student in an accredited school, as determined by the board.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.4. Parent

As used in this article "parent" means the father or mother of the deceased member who at the time of the death of such member was not less than 62 years of age and was receiving not less than one-half of his or her support from the member, and who has not remarried since the member's death.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.5. Survivor's allowance; spouse

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death, the member's surviving spouse shall be paid a monthly survivor's allowance equal to the sum, based upon the appropriate factual circumstances, specified in Section 31855.8 or 31855.12.

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (A.B. 1355), Sec. 1)

§31855.6. Survivor's allowance; child or children

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death and who is survived by one or more children but no surviving spouse, the child or children shall be entitled to a monthly survivor's allowance as specified in Section 31855.8 or 31855.12. The monthly survivor's allowance of two or more children shall be divided equally as to those children.

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (A.B. 1355), Sec. 2)

§31855.7. Survivor’s allowance; parent or parents

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member’s death, the member’s surviving parent or parents shall be entitled to a monthly survivor’s allowance as specified in Section 31855.8 or 31855.12.

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (A.B. 1355), Sec. 3)

§31855.8. Survivor’s allowances; table

Monthly survivor’s allowances shall be based upon the following table:

Member’s survivors	Monthly allowances
Surviving spouse caring for one child	\$591.80
Surviving spouse caring for two or more children	\$690.40
One child only	\$295.90
Two children only	\$581.80
Three or more children	\$690.40
Widow or widower age 62 (no child)	\$327.10
Each of two dependent parents at age 62	\$295.90
Sole dependent parent at age 62	\$325.50
Lump sum payment	\$255.00

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.9. Supplemental survivorship benefit; lump sum

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member’s death who is survived by a spouse with whom the member was living at the time of his or her death, the retirement system shall pay to the surviving spouse, in addition to all other payments due, if any, a lump sum supplemental survivorship benefit of two hundred fifty-five dollars (\$255), as set forth in Section 31855.8 or 31855.12. If the member is not survived by a spouse with whom the member was living, the retirement system shall apply a lump sum supplemental survivorship benefit to reimburse the person who paid the funeral expenses of the member in an amount not to exceed two hundred fifty-five dollars (\$255).

(Added by Stats. 1974, Ch. 415, Sec. 3)

(Amended by Stats. 2009, Ch. 9 (A.B. 1355), Sec. 4)

(Amended by Stats. 2010, Ch. 328 (SB 1330), Sec. 90)

§31855.10. Financing cost of benefits; deduction from salary or wages; contribution by county

In addition to the contributions required elsewhere in this chapter there shall be deducted from the salary or wages of each member covered by the provisions of this article, to finance the cost of the benefits provided herein, the sum of three dollars and fifty cents (\$3.50) per month and an equivalent amount to be paid by the county as an additional county contribution. The amounts deducted pursuant to this section shall not be considered to be a portion of a member’s accumulated contributions and shall not be refunded to a member upon termination of service or for any other reason. The board is empowered to change the contribution figures set forth herein from time to time based on actuarial recommendation as to contributions needed to fund these benefits.

(Added by Stats. 1974, Ch. 415, Sec. 3)

§31855.11. Survivor’s allowance, child but no surviving spouse; child not being cared for by surviving spouse; alternative to Section 31855.6; contingent operation

Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member’s death and who is survived by one or more children but no surviving spouse, or who is survived by one or more children who are not being cared for by the surviving spouse, the child or children shall be entitled to a monthly survivor’s allowance as specified in Section 31855.8 or 31855.12, as the case may be. The monthly survivor’s allowance of two or more children shall be divided equally as to those children.

This section is an alternative to Section 31855.6.

This section shall not be operative in any county which has adopted this article, until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

(Added by Stats. 1991, Ch. 982, Sec. 6)

§31855.12. Survivor’s allowances; alternative table; contingent operation

Monthly survivor’s allowances shall be based upon the following table:

Member’s survivors	Monthly allowances
Surviving spouse caring for one child	\$1,390
Surviving spouse caring for two or more children	\$1,622
One child only	\$695
Two children only	\$1,390
Three or more children	\$1,622
Widow or widower age 62 (no child)	\$768
Widow or widower age 60 (no child)	\$663
Each of two dependent parents at age 62	\$695
Sole dependent parent at age 62	\$795
Lump sum payment	\$255

This section is an alternative to Section 31855.8.

This section shall not be operative in any county which has adopted this article, until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

(Added by Stats. 1991, Ch. 982, Sec. 7)

Article 16

Alternate Survivors' Allowances

(Article 16 added by Stats. 1961, Ch. 1591, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31861)

§31861. Operative effect as to counties

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

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31862. Applicability to members

In counties to which this article applies, this article provides an alternative system of survivors' allowance applicable only to the members who elect to participate.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31863. Election to participate; date election becomes operative

Except as otherwise provided in Section 31864, any member within 30 days after this article becomes operative in the county, or within 30 days after entry into service, or during the calendar months of November or December of any year, may elect to make contributions for, and participate in, the benefits provided for by this article. An election made more than 30 days after this article becomes operative in this county and more than 30 days after entrance into service shall become operative the following January first.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31864. Right to rescind election; effect of rescission

Any member who has elected to participate in the benefits provided for by this article may rescind such election during the months of November or December of any year. Such election shall become operative on the following January first. No part of the contributions deducted, pursuant to this article from his salary or wages will be refunded to such member. Such member may not again elect to participate in the benefits provided for by this article.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31865. Applicability of survivor's allowance provisions

If a member elects to participate in the benefits of this article all of the provisions of Article 15.5 shall apply to such member and to his eligible spouse, children, and parents, and to all other persons to whom Article 15.5 applies, and such provisions are herein incorporated by reference as if set forth in full except as hereinafter in this article provided otherwise.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31866. Fixation of additional contributions

The board shall fix the additional contributions of members at amounts which it finds will pay one-half of the cost of the survivors' benefits and lump sum supplemental survivorship benefit provided for in this article.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31866.1. Contributions from members subject to federal act

Members who because of county service, are subject to the federal old age and survivors insurance provisions of the Federal Social Security Act shall pay the entire cost of the survivors

benefits and lump sum supplemental survivorship benefit provided for in this article.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31867. Amount of additional contributions

Until the regulations of the board designate otherwise the additional contribution of each safety member shall be one dollar and thirty cents (\$1.30) per month and of each other member shall be one dollar and seventy-one cents (\$1.71) per month.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31868. Minimum contributions for benefits to spouse or child

If a member elected to participate in the benefits provided for by this article more than 30 days after this article became operative in the county, a survivor's allowance shall not be due to either his eligible spouse or child, and a lump sum supplemental survivorship benefit shall not be due, unless additional deductions were made pursuant to this article from the salary or wages of such member for not less than 18 months.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

§31869. Minimum contributions for benefits to parents

If a member elected to participate in the benefits provided for by this article more than 30 days after this article becomes operative in the county, a survivor's allowance shall not be due to any parent of such member unless additional deductions were made pursuant to this article from the salary or wages of such member for not less than 10 years.

(Added by Stats. 1961, Ch. 1591, Sec. 3)

Article 16.5

Cost-of-Living Adjustment

(Article 16.5 added by Stats. 1965, Ch. 159, Sec. 10; Article applicable in counties adopting it as prescribed by Sections 31874 and 31878)

§31870. Determination; maximum annual change of two percent in allowances; limitation on reduction

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section.

Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or a superseded system, who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 2 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 2 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this article, whichever is later.

(Amended by Stats. 1978, Ch. 900, Sec. 10)

§31870.01. Determination; increase or decrease by 40 percent of cost-of-living increase or decrease; two percent minimum increase (Los Angeles)

(a) The board of retirement shall, before April 1 of each year, determine whether there has been an increase or decrease in the cost-of-living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter, every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or a superseded system, who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased to the nearest one-tenth of 1 percent, by 40 percent of the annual increase or decrease in the cost-of-living as of January 1st of each year as shown by the then current (year ending December) Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers for the United States City Average, except that no decrease shall reduce the allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance.

(b) The allowance shall be increased a minimum of 2 percent in any year in which the board's determination of cost-of-living change of allowance would result in less, provided that the member or beneficiary has an accumulated unpaid cost-of-living account sufficient to provide the 2 percent increase.

(c) When this section becomes applicable in a county, the accumulated unpaid cost-of-living amount of each retired member or beneficiary under the superseded Section 31870, shall be transferred to a like account under this section. Thereafter, no increase shall be made to such account.

(d) The board of retirement may adopt this section to be effective in lieu of Section 31870, provided, that no increase in unfunded actuarial liability nor in current member or employer contributions to the system are required as a result of the adoption and is so attested by an enrolled actuary. After adoption, the effective date for increases or decreases in allowances pursuant to this section shall be the next succeeding April 1.

(e) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022, as amended by Chapter 1204 of the Statutes of 1971.

(Added by Stats. 1987, Ch. 606, Sec. 1)

§31870.1. Determination; maximum annual change of three percent in allowances; limitation on reduction

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section.

Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 3 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 3 percent in allowances shall be accumulated to be met by increases or decreases in allowance in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this article, whichever is later.

(Amended by Stats. 1978, Ch. 900, Sec. 11)

§31870.11. Determination; increase or decrease by 60 percent of cost-of-living increase or decrease; three percent minimum increase (Los Angeles)

(a) The board of retirement shall, before April 1 of each year, determine whether there has been an increase or decrease in the cost-of-living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter, every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or a superseded system, who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased to the nearest one-tenth of 1 percent, by 60 percent of the annual increase or decrease in the cost-of-living as of January 1st of each year as shown by the then current (year ending December) Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers for the United States City Average, except that no decrease shall reduce the allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance.

(b) The allowance shall be increased a minimum of 3 percent in any year in which the board's determination of cost-of-living change of allowance would result in less, provided that the member or beneficiary has an accumulated unpaid cost-of-living account sufficient to provide the 3 percent increase.

(c) When this section becomes applicable in a county, the accumulated unpaid cost-of-living account of each retired member or beneficiary under the superseded Section 31870.1, shall be transferred to a like account under this section. Thereafter, no increases shall be made to such account.

(d) The board of retirement may adopt this section to be effective in lieu of Section 31870.1, provided, that no increase in unfunded actuarial liability nor in current member or employer contributions to the system are required as a result of the adoption and is so attested by an enrolled actuary. After adoption, the effective date for increases or decreases in allowances pursuant to this section shall be the next succeeding April 1.

(e) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022, as amended by Chapter 1204 of the Statutes of 1971.

(Added by Stats. 1987, Ch. 606, Sec. 2)

§31870.2. Determination; maximum annual change of five percent in allowances; limitation on reduction

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section.

Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 5 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 5 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this section, whichever is later.

(Amended by Stats. 1978, Ch. 900, Sec. 12)

§31870.3. Contra Costa County; determination; limitation

Notwithstanding Section 31870.1, the board shall, before April 1st of each year, determine whether there has been an increase or decrease in the cost-of-living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter, every retirement allowance, optional death allowance, or annual death allowance payable to, or on account of, any member of this system who was covered under Section 31751 who retires or dies, or who has retired or died, shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 4 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 4 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this section, whichever is later.

(Added by Stats, 1980, Ch. 58, Sec. 21, Effective April 4, 1980)

§31870.4. Computation of accumulation established in Section 31870 to Section 31870.3; accumulation adjustment; operative effect

Notwithstanding any other provision of law, the accumulation established in Section 31870, 31870.1, 31870.2, or 31870.3 shall be computed by multiplying the existing accumulation from prior years by an amount equal to one plus the amount of any cost-of-living increase or decrease in the current year, and adding to this result the "accumulation adjustment," where "accumulation adjustment" means the amount of any cost-of-living increase or decrease in the current year that is not met by the maximum annual change in allowances provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable. At no time may the accumulation established in Section 31870, 31870.1, 31870.2, or 31870.3 be less than zero.

This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors. Upon adoption of this section by the board of supervisors, the accumulation of each member under Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, shall be recomputed as if this section had been in effect on the member's date of retirement.

(Added by Stats. 2001, Ch. 239 (A.B. 1071), Sec. 1)

§31871. Funding increases in allowances based on service rendered prior to applicable date of article

Any increases in allowances which are based upon service rendered prior to the applicable date of this article (as fixed pursuant to Section 31874) shall be funded insofar as possible from the moneys in the reserve described in Section 31592 which are in excess of one (1) percent of the assets of the retirement system; except that in counties which have applied Section 31592.2 the board of supervisors may fund all or part of the increases from the county general fund.

(Amended by Stats. 1987, Ch. 162, Sec. 1)

§31872. Funding other increases in allowances

Any such increases in allowances which are not funded as provided in Section 31871 and any such increases which are based upon service rendered after the applicable date of this

article (as fixed pursuant to Section 31874) shall be funded by contributions set by the board, as it determines necessary.

(Added by Stats. 1965, Ch. 159, Sec. 10)

§31873. Increases in contributions; equal apportionment; payment by county of contribution assessable to member

Any increases in contributions shall be shared equally between the county or district and the contributing members, with the individual member’s contributions based upon the member’s age at his or her nearest birthday at time of entrance into the retirement system. The board of supervisors by a majority vote may elect to pay part of the costs of the contributions which would otherwise be assessed to the individual members.

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

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

Any cost-of-living contributions required for benefits under Section 31870.3 shall be shared equally between the county or district and the contributing members. The individual member’s contributions shall be based upon the member’s age at the member’s nearest birthday at time of entrance into the retirement system, and shall be expressed as a percentage of the member’s normal contribution rate. The board of supervisors by a majority vote may elect to pay all or part of the costs of the contributions which would otherwise be assessed to the individual members.

Until revised by subsequent actuarial studies, the member’s cost-of-living contribution rate shall be 39.57 percent of the member’s normal contribution rate. These initial cost-of-living contribution rates are shown in the following table, according to the member’s age at the time of entry into the system:

Age of entry into system	Percentage of contribution
16	1.16
17	1.16
18	1.16
19	1.16
20	1.16
21	1.16
22	1.16
23	1.16
24	1.16
25	1.17
26	1.17
27	1.18
28	1.18
29	1.19
30	1.20
31	1.20
32	1.21
33	1.22
34	1.23
35	1.24
36	1.25
37	1.26

Age of entry into system	Percentage of contribution
38	1.27
39	1.28
40	1.29
41	1.30
42	1.31
43	1.32
44	1.33
45	1.34
46	1.36
47	1.37
48	1.38
49	1.40
50	1.41
51	1.43
52	1.44
53	1.46
54 and over	1.47

(Added by Stats. 1980, Ch. 58, Sec. 22, Effective April 4, 1980)

§31874. Applicable date of article; use of surplus for cost-of-living adjustments

This article (commencing Section 31870) may be made applicable in any county on the date specified in the ordinance, or if no such date is specified, on the first day of the month after the effective date of an ordinance adopted by the board of supervisors to this effect, provided that an actuarial survey of the retirement system has been made by the adopting county prior to the passage of said ordinance. No provision of this chapter shall prevent or be construed to prevent the use and expenditure of surplus described in Section 31592.2 to fund any part or all of any increases in allowances otherwise permitted after this article or Article 16.6 (commencing with Section 31875) or both this article and Article 16.6 or any of the provisions of this article or Article 16.6 have been made applicable.

Except in a county of the first class, upon adoption by a county providing increases in allowances pursuant to this article, of Article 5.5 (commencing with Section 31510) of this chapter, only that portion of the increases in allowances which is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8.

(Amended by Stats. 1983, Ch. 886, Sec. 10)

§31874.1. Determination; application of excess over three percent to allowances

Whenever the percentage of annual increase in the cost-of-living as of January 1st of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds 3 percent, all or part of such excess over 3 percent shall be applied to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1. The board of supervisors shall determine the amount of such excess to be applied, and the cost of the increases in allowances provided shall be paid from county and district contributions.

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

(Amended by Stats. 1978, Ch. 900, Sec. 13)

§31874.2. Determination; maximum annual change; ordinance

The board of supervisors in any county, by a majority vote, may enact an ordinance providing that the maximum annual change pursuant to this article shall be increased to 4, 5, or 6 percent, as determined by the board, on the operative date of such ordinance.

(Added by Stats. 1974, Ch. 343, Sec. 1)

§31874.3. Determination; application of excess to allowances; effect on subsequent increases

(a)(1) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds the maximum benefit increase provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, the board of retirement may provide that all or part of the excess percentage increase shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3. The board shall determine the amount of the excess to be applied, which amount shall not exceed an amount that can be paid from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(2) The supplemental increases in excess of the increases applied to the retirement allowances, optional death allowances, or annual death allowances pursuant to Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances, or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(b)(1) The board of retirement may, instead of taking action pursuant to subdivision (a), provide supplemental cost-of-living increases, effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, that only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 shall equal or exceed 20 percent as of January 1 of the year in which the board of retirement adopts an increase under this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(c)(1) The board of retirement may, instead of taking action pursuant to subdivision (a) or (b), provide supplemental cost-of-living increases, on a prefunded basis and effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 equal or exceed 20 percent as of January 1 of the year in which the board of retirement takes action pursuant to this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3

shall become a part of the retirement allowances, optional death allowances, or annual death allowances and shall serve to reduce the accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3, as applicable, by the same percentage as the payment that is made pursuant to this Section.

(3) Before the board of retirement provides benefits pursuant to this subdivision, the costs of the benefits shall be determined by a qualified actuary and the board of retirement shall, with the advice of the actuary, provide for the full funding of the benefits utilizing funds in the reserve against deficiencies established pursuant to Section 31592.2, using surplus earnings that exceed 1 percent of the total assets of the retirement system.

(4) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(d) Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefit Reserve established pursuant to Section 31618.

(Amended (as amended by Stats. 1983, Ch. 147, Sec. 2) by Stats. 1983, Ch. 886, Sec. 11)
(Amended by Stats. 2000, Ch. 317 (A.B. 2176), Sec. 4)

§31874.4. Accumulation of unused increases or decreases for future years; applicability (San Mateo)

Notwithstanding any other provision of law, the board of supervisors in a county of the 10th class may provide in any ordinance implementing any section in this article that the provision of this article requiring unused increases or decreases in any year to be accumulated for future years shall not apply to those employees and officials specified in the ordinance.

(Added by Stats. 1992, Ch. 707, Sec. 5, Effective September 15, 1992)

§31874.5. Additional cost-of-living adjustments

Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds a full 3 percent of the existing cost-of-living increase factor provided by any provision of this article, an additional 1 percent of the excess for each full 3 percent over the existing increase factor shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased by any provision of this article. The increases in allowances resulting from the adoption of this section shall be used to offset any accumulated carryover balances under existing cost-of-living adjustments. The cost of implementing this section shall be prefunded commencing with the adoption of this section by the board of supervisors. The method of paying the cost of implementing this section may be mutually agreed to in a memorandum of understanding executed by the employer and employee representatives. The board of retirement shall conduct the actuarial studies to determine those costs.

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

(Added by Stats. 1999, Ch. 39 (A.B. 316), Sec. 1)

§31874.6. Cost-of-living adjustments (Sonoma, Imperial)

(a) Notwithstanding any other provision of law, on an annual basis, the board of retirement may, with the approval of the county board of supervisors, grant a cost-of-living adjustment on a prefunded basis to the retirement allowances, optional death allowances,

or annual death allowances payable to or on account of eligible members. The action by the board of retirement may specify a date as of which the adjustment shall be effective and, if no effective date is specified, the adjustment shall be made in allowances payable for the time commencing on the first day of the month following the action by the board of retirement or approval by the county board of supervisors, whichever is later.

(b) Before the board of retirement may grant an adjustment pursuant to this section, the total costs of the adjustment shall be determined by a qualified actuary and the board shall determine, with the advice of the actuary, that full funding of the adjustment can be provided from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(c) The adjustment provided by this section shall be payable only to those retired members, survivors, beneficiaries, or successors in interest whose accumulated loss of purchasing power equals or exceeds 20 percent as of January 1 of the year the board of retirement takes action pursuant to this section. Loss of purchasing power shall be determined by the board of retirement based on the difference between the following:

(1) The initial retirement allowance, optional death allowance, or annual death allowance as it would have been increased by the cumulative total effect of the annual changes, rounded to the nearest one-half of 1 percent, in the Consumer Price Index for All Urban Consumers for the area in which the county seat is situated.

(2) The retirement allowance, optional death allowance, or annual death allowance as actually increased by cost-of-living adjustments previously granted with respect to the allowance.

(d) A cost-of-living adjustment granted pursuant to this section shall become part of the retirement allowance, optional death allowance, or annual death allowance to be increased by any subsequent cost-of-living adjustments. The granting of an increase pursuant to this section in any particular year does not create any continuing entitlement to additional increases in subsequent years, and does not create any claim by a retired member, survivor, beneficiary, or successor in interest against the county, district, or retirement fund for any increase in any allowance paid or payable prior to the effective date of the action by the board of retirement pursuant to this section.

(e) This section shall only be applicable in the following counties:

(1) A county of the 19th class, as defined by Sections 28020 and 28040, as amended by Chapter 1204 of the Statutes of 1971.

(2) A county of the 32nd class, as defined by Sections 28020 and 28053, as amended by Chapter 1204 of the Statutes of 1971.

(Added by Stats. 2004, Ch. 435 (A.B. 2894), Sec. 1)

(Amended by Stats. 2005, Ch. 22 (S.B. 1108), Sec. 94)

(Amended by Stats. 2008, Ch. 202 (S.B. 392), Sec. 1)

Article 16.6

Retrospective Cost-of-Living Adjustment

(Article 16.6 added by Stats. 1965, Ch. 521, Sec. 1; Article applicable in counties adopting it as prescribed by Section 31878)

§31875. Adjustments in accordance with past cost-of-living changes; ordinance; applicable law

Any county may provide by ordinance that the principles set forth in Article 16.5 (commencing with Section 31870), as a basis for adjustment of retirement allowances in

accordance with future cost-of-living changes, shall be applied for the purpose of adjusting retirement allowances in accordance with past cost-of-living changes.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31876. Amount of retirement allowances

The retirement allowances payable following the effective date of this article in the county shall be in the same amounts as would be payable if Article 16.5 had been in effect in the county on the date specified in the ordinance as the date for application of this article in the county.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31877. Adjustments for changes in consumer price index occurring prior to effective date of article; prospective application

Any adjustment made pursuant to this article with reference to changes in the Consumer Price Index for all Urban Consumers which occurred prior to the effective date of this article in a county shall apply prospectively only; and no right, claim or interest whatsoever shall be created by the application of the provisions of this section in any county with respect to retirement allowance payments made for time prior to the effective date of this article in the county.

(Amended by Stats. 1978, Ch. 900, Sec. 15)

§31878. Ordinance; date of applicability of Article 16.5; effective date of adjustments

(a) This article may be adopted by any county by ordinance.

(b) The ordinance shall specify a date as of which Article 16.5 shall be deemed applicable. The applicable date may be the first day of any prior year. If no applicable date is specified, Article 16.5 shall be deemed applicable as of the first day of the year preceding the year of retirement of the earliest retired member who is currently being paid a retirement allowance at the time the ordinance is adopted.

(c) The ordinance shall specify a date as of which the adjustments made pursuant to this article shall be effective. If no effective date is specified, the adjustments shall be made in allowances payable for time commencing on the first day of the month following the adoption of the ordinance.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31879. Adoption of either this article or article 16.5 or both; effect of adoption of both articles

Any county may adopt or readopt this article alone for time to time, adopt Article 16.5 alone, or adopt this article and Article 16.5 at the same time or different times. If both articles are adopted, any accumulated increases in excess of two percent (2%) per year which are accumulated under this article shall be applicable to the computation of future allowance adjustments as provided in Article 16.5 and any allowance which is increased as provided in this article shall be subject to future increase or decrease as provided in Article 16.5.

(Added by Stats. 1965, Ch. 521, Sec. 1)

§31879.1. Adoption of this article and/or Article 16.5; accumulated increases

Any county may adopt or readopt this article alone from time to time, adopt Article 16.5 alone, or adopt this article and Article 16.5 at the same time or different times. If both articles are adopted, any accumulated increases in excess of three percent (3%) per year which are accumulated under this article shall be applicable to the computation of future allowance

adjustments provided in Article 16.5 and any allowance which is increased as provided in this article shall be subject to future increase or decrease as provided in Article 16.5.

(Added by Stats. 1967, Ch. 45, Sec. 3)

§31879.2. Adoption of either this article or article 16.5 or both; accumulated increases

Any county may adopt or readopt this article alone from time to time, adopt Article 16.5 alone, or adopt this article and Article 16.5 at the same time or different times. If both articles are adopted, any accumulated increases in excess of 5 percent per year which are accumulated under this article shall be applicable to the computation of future allowance adjustments as provided in Article 16.5 and any allowance which is increased as provided in this article shall be subject to future increase or decrease as provided in Article 16.5.

(Added by Stats. 1974, Ch. 1388, Sec. 2, Effective September 26, 1974)

Article 17

Integration with Federal Old Age, Survivors, and Disability Insurance

(Article 17 added by Stats. 1963, Ch. 2090, Sec. 1)

§31880. Mandatory integration

Each county having a population in excess of five million, which has not already integrated its retirement system with the federal system, shall effect such integration pursuant to this article to be operative as of a date specified by the board of supervisors to be no later than July 1, 1964.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31881. Incorporation of Article 13 by reference

Except as otherwise expressly provided in this article, all of the provisions of Article 13 of this chapter (commencing with Section 31800) apply to, and are incorporated by reference in this article.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31882. Board

"Board," as used in this article, means the Board of Administration of the Public Employees' Retirement System.

(Amended by Stats. 1972, Ch. 590, Sec. 28)

§31883. Federal-state agreement

"Federal-state agreement" means the agreement or any modification thereof now, heretofore, or hereafter executed by the board pursuant to Section 218 of Title II of the Social Security Act.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31884. Pension board

"Pension board," as used in this article, means the board of retirement.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31885. Retirement system

"Retirement system" means the retirement plan provided by the county for its employees under this chapter.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31886. Policeman

"Policeman" as used in this article includes sheriffs, undersheriffs, deputy sheriffs and any other employee of a county in a position designated as a policeman's position by the board; provided, any such position named herein or as may be designated by the board, is not contrary to any definition, ruling or regulation issued by the federal agency relating to the term "policeman" for the purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31887. Fireman

"Fireman," as used in this article, means any employee in a position designated as a fireman's position by the board; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "fireman" issued by the federal agency for the

purposes of Section 218(d)(5)(A) of the Social Security Act.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31888. Division of retirement system into those desiring, and those not desiring, federal coverage

The pension board shall effect a division into two parts exclusive of the division required by Section 31891, for the purposes of this article, of the retirement system. One part shall consist of those who are active members of the retirement system on division date, and who do not desire coverage under the federal system; and the second part shall consist of those who are active members of the system on division date, and who desire coverage under the federal system and of those who become members of the system after division date. The division date shall be set by the pension board so as to permit modification of the federal-state agreement to include services of employees who are members of the second part of said system.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31889. Method of division

The division shall be conducted in accordance with Section 218(d)(7) of the Social Security Act and applicable federal and board rules and regulations, by the pension board.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31890. Certification of division by governor

Upon receiving evidence satisfactory to him with respect to any division of a retirement system that the conditions specified in Section 218(d)(7) of the Social Security Act have been met, the Governor or any other state official now or hereafter authorized by federal law, shall so certify to the federal agency.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31891. Policemen and firemen deemed in separate retirement systems

For the purpose of this article, policemen, as defined in Section 31886, and firemen, as defined in Section 31887, shall each be deemed to belong to separate retirement systems.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31892. Federal benefits; vote of firemen or policemen

When federal benefits are to be extended to any firemen's or policemen's position pursuant to this part it shall be done only by a vote of such firemen or policemen as provided in Section 31801.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31893. Agreement with federal agency for coverage

The pension board shall apply to the board in accordance with the provisions of this article, and the board shall execute on behalf of the State an agreement with the federal agency for the coverage of employees of the county under the federal system in conformity with the provisions of Section 218 of the Social Security Act and applicable federal regulations.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

§31894. Agreement governing administration

Notwithstanding the provisions of Section 31893, however, before the board shall execute on behalf of the State an agreement with the federal agency as herein provided, the pension board and the board shall enter into a written agreement, which agreement shall include such provisions not inconsistent with this article which the board deems necessary

in the administration of the said federal system as it affects the State and the county and its employees.

(Added by Stats. 1963, Ch. 2090, Sec. 1)

Article 17.5

Termination of Social Security in Counties with a Population Exceeding 6,000,000

(Article 17.5 added by Stats. 1982, Ch. 1567, Sec.1; Applicable as prescribed by Section 31894.1)

§31894.1. Application of article; notice of intent to terminate benefits

This article shall apply only in a county with a population exceeding 6,000,000 and shall apply in that county only if the board of supervisors has provided notice of intent to terminate benefits under federal social security.

(Added by Stats. 1982, Ch. 1567, Sec. 1)

§31894.2. Advisory vote; cancellation of notice of intent; judicial proceeding to secure new benefits

Any county which has provided the notice specified in Section 31894.1 shall provide a vote of the affected members, the results of which shall be advisory to the board of supervisors. The board of supervisors may, following the advisory vote, cancel their notice of intent to withdraw from social security at least 30 days prior to the effective date of termination of coverage under the federal system.

Nothing in this section shall be construed to waive any rights that employees may have to secure by appropriate judicial proceeding new benefits comparable to those provided under the federal social security system.

(Added by Stats. 1982, Ch. 1567, Sec. 1)

§31894.3. Certification that board had obtained advisory vote of members

The board of supervisors shall, by resolution, certify to the Board of Administration of the Public Employees' Retirement System that the provisions of Section 31894.2 have been complied with. In the event that the board of supervisors cannot certify compliance with the provisions of Section 31894.2, the board of supervisors shall cancel their notice of intent to withdraw from social security at least 30 days prior to the effective date of termination of coverage under the federal system.

(Added by Stats. 1982, Ch. 1567, Sec.1)

Article 18

Adjustment to Fit Other Allowances

(Article 18 added by Stats. 1965, Ch. 511, Sec. 1)

§31895. "Public agency" defined

As used in this article "public agency" includes the federal government or any federal department or agency, this state, any other state or any state department or agency, a county, city, public corporation, or public district of this state or any other state. Section 31478 does not apply to this article.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31895.5. "Total benefits" defined

As used in this article, "total benefits" means the retirement allowance or other benefit payable to any beneficiary pursuant to the provisions of this chapter plus any other monetary payments due to the same beneficiary from any public agency.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31896. Increase in allowance resulting in decrease in amount of monetary payments due beneficiary

If an increase in the retirement allowance or other benefit payable to any beneficiary pursuant to the provisions of this chapter, whether such increase begins prior or subsequent to the effective date of this article, results in the decrease of the amount of any monetary payments due to the same beneficiary from any public agency, such retirement allowance or other benefit shall be so reduced as to result in the maximum total benefits to such beneficiary.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31896.5. Change in effect of increase of retirement allowance or other benefit payable to beneficiary

If the statutes, ordinances, rules, regulations, or orders of any public agency are so changed, or if for any other reason the effect of the increase of the retirement allowance or other benefit payable to any beneficiary pursuant to the provisions of this chapter on the amount of any monetary payments due to the same beneficiary by such public agency are changed, the board shall adjust such retirement allowance or other benefit, but not to an amount greater than otherwise authorized by this chapter so as to result in the maximum total benefits to such beneficiary.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31897. Provisions mandatory; information to board; procedure for ascertainment of facts

The provisions of this article are mandatory and not subject to option or election by any member or other beneficiary. Every such beneficiary shall inform the board of all facts necessary in order to comply with this article. The board shall ascertain such facts by such procedures as it sees fit to adopt.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31897.5. Liability for excess payment

If the board in good faith diligently seeks to ascertain all facts necessary in order to comply with this article, but, despite such effort, a payment of a retirement allowance or other benefit to any beneficiary is made without having been reduced as required by this article, neither the board, nor any member thereof, nor any public officer nor public employee shall be

liable for such excess payment.

(Added by Stats. 1965, Ch. 511, Sec. 1)

§31897.6. Deduction of amount of advanced disability pension payments made to local safety members pursuant to specified Labor Code sections from member's retroactive disability pension payments

The board shall deduct the amount of advanced disability pension payments made to a local safety member pursuant to Section 4850.3 or 4850.4 of the Labor Code from the member's retroactive disability pension payments.

If the retroactive disability allowance is not sufficient to reimburse the total advanced disability pension payments, an amount no greater than 10 percent of the member's monthly disability allowance shall be deducted and reimbursed to the local agency until the total advanced disability pension payments have been repaid. The local safety member and this system may agree to any other arrangement or schedule for the member to repay the advanced disability pension payments.

(Added by Stats. 2002, Ch. 877 (A.B. 2131), Sec. 2)

§31898. Reduction not to impair constitutional rights

A retirement allowance or other benefit payable to a beneficiary pursuant to this chapter shall not be reduced pursuant to this article if such reduction would impair the constitutional rights of any person.

(Added by Stats. 1965, Ch. 511, Sec. 1)

Chapter 3.9

Internal Revenue Code County Compliance and Replacement Benefits Program

(Chapter 3.9 added as “Internal Revenue Code County Compliance and Optional Replacement Benefit Program” by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 3, Effective September 13, 1990, was amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 7, to read as now appearing)

§31899. Purpose

The purpose of this chapter is to ensure the federal tax-exempt status of the county employees’ retirement systems, to preserve the deferred treatment of federal income tax on public employer contributions to public employee pensions, and to ensure that members are provided with retirement and other related benefits that are commensurate, to the extent deemed reasonable, with the services rendered without violating the intent and purposes of Section 415 of the Internal Revenue Code.

To achieve this purpose, this chapter incorporates certain pension payment limitations and elects the “grandfather” option in Section 415(b)(10) of the Internal Revenue Code. Also, this chapter provides for certain replacement benefits.

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

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

§31899.1. Definitions

(a) The definitions in Chapter 3 (commencing with Section 31450) of this part shall apply to this chapter.

(b) The term “Internal Revenue Code” includes all regulations, revenue rulings, notices, and revenue procedures issued by the Internal Revenue Service.

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

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 9)

§31899.2. First time members on or after January 1, 1990; payment limitations; grandfather election; counties of first class; application

(a) In accordance with Section 31899.3, the retirement benefits for any person who for the first time became a member of the system on or after January 1, 1990, shall be subject to the payment limitations of Section 415 of the Internal Revenue Code. The retirement benefits for any person who became a member of the system before January 1, 1990, also shall be subject to the payment limitations of Section 415 of the Internal Revenue Code to the extent that those benefits are not exempt from those limitations under the “grandfather” election that has been made under that section and this section.

(b) The “grandfather” election in Section 415(b)(10) of the Internal Revenue Code is hereby made. All members of a retirement system who joined the system prior to January 1, 1990, are exempt from the Section 415 limits to the extent permitted by the Internal Revenue Code.

(c) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

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

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 10)

§31899.3. Impact of I. R. C. upon retirement rights; notice to employers; counties of first class

(a) Notwithstanding any other provision of law, the retirement rights conferred by this chapter and by Chapter 3 (commencing with Section 31450) of this part upon any person who for the first time becomes a member of a retirement system on or after January 1, 1990, shall be subject to the limitations in the Internal Revenue Code upon benefits that may be paid by public retirement systems. That person may not have any retirement right or benefit that exceeds those limitations, and no retirement right or benefit may accrue to or vest in that person under Chapter 3 (commencing with Section 31450) that exceeds those limitations. That person may, however, have retirement rights and benefits under the replacement benefits program established under this chapter.

(b) Each retirement board shall provide to each employer a notice of the content and effect of subdivision (a) for distribution, prior to employment, to each person who may become a member and to each person who for the first time becomes a member on or after January 1, 1990.

(c) Chapter 3 (commencing with Section 31450) shall be construed as if it included this section.

(d) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

(Formerly Section 31673.1, added by Stats. 1989, Ch. 1448, Sec. 2, Effective October 2, 1989)

(Renumbered Section 31899.4 and amended by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 2.5, Effective September 13, 1990)

(Renumbered Section 31899.3 and amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 11)

§31899.4. Replacement benefits program

(a) Each county and district shall provide a program to replace the benefits that are limited by Section 415 of the Internal Revenue Code for members whose retirement benefits are limited by Section 415 and cannot be fully maximized pursuant to Section 31538. The replacement benefits program shall provide benefits that, together with the benefits provided by the retirement system, are the same as, and may not exceed, the benefits that would be paid by the retirement system but for the application of the limits of Section 415.

Notwithstanding the foregoing, the county or district may modify its replacement benefits program and may add, modify, or eliminate any replacement benefits, as necessary, to carry out the purpose of this chapter. A replacement benefit may not be reduced if the reduction would impair the vested rights of any person.

(b) Each county shall establish and administer its own replacement benefits program for members whose retirement benefits are limited by Section 415 of the Internal Revenue Code.

(c) A county may, pursuant to a contract with a district, agree to administer the district's replacement benefits program for the district's members whose retirement benefits are limited by Section 415 of the Internal Revenue Code. The county may charge each district a reasonable fee for administering the district's program and the county and district may agree on any other conditions relating to that administration. If a district does not contract with the county to administer its replacement benefits program, it shall establish and administer its own replacement benefits program.

(d) Upon the recommendation of the retirement system's actuary, and in accordance with its obligation to recommend county and district contribution rates under Sections 31453 and 31453.5, the board shall adjust the contributions required to be made by a county or district

to the extent that benefits are payable under a replacement benefits program of that county or district.

(e) The county, and any district that establishes and administers its own program, shall enact an ordinance or prescribe regulations or other written documentation setting forth the terms of its replacement benefits program.

(f) Notwithstanding any other provision of this chapter, a county of the first class, as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, is not required to provide replacement benefits to any member under this section if that member participates in General Plan F or Safety Plan F under Article 2.1 (commencing with Section 31510) of Chapter 3.

(Added by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 12)

§31899.5. Administration of replacement benefits program

Each county, and each district that establishes its own replacement benefits program, shall administer the replacement benefits program established by it pursuant to this chapter. The board may, pursuant to an agreement with the county or the district that establishes its own program, assist in the administration of the replacement benefits program to the extent permitted under the Internal Revenue Code.

(Added by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 14)

§31899.6. Nonconformity with I. R. C. Sec. 415; inoperative effect on chapter

If the Internal Revenue Service determines that any provision of Chapter 3 (commencing with Section 31450) of this part or this chapter cannot be given effect without placing a retirement system administered under this chapter or Chapter 3 (commencing with Section 31450) of this part out of conformity with Section 415 of the Internal Revenue Code, that provision, only to the extent that it causes that nonconformity and only with respect to the affected parties shall become inoperative with respect to the payment of benefits pursuant to Chapter 3 (commencing with Section 31450) of this part, as of the effective date of the determination. The retirement board shall notify the Secretary of State of inoperation under this section.

(Formerly Section 31899.7, added by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.6 and amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 16)

§31899.7. Exclusion of public retirement systems; invalidation of application of I. R. C. Sec. 415; inoperation of chapter; action by retirement board

(a) If Section 415 of the Internal Revenue Code is amended to exclude public retirement systems, or if the application of Section 415 of the Internal Revenue Code to public retirement systems is invalidated by the final decision of an appellate court of proper jurisdiction, all sections of this chapter, except this section, shall become inoperative as of the effective date of that amendment or decision. The retirement board shall immediately notify the Secretary of State whenever any provision of this chapter becomes inoperative pursuant to this section.

(b) Whenever all sections of this chapter, except this section, become inoperative pursuant to this section, and to the extent not prohibited by the Internal Revenue Code, the retirement board, county, and districts shall do all of the following:

(1) Remove the pension limitations imposed by Section 415 of the Internal Revenue Code for prospective payments to annuitants.

(2) Eliminate the replacement benefits, and pay benefits that are due under the system to the affected annuitants without regard to any limitations of Section 415 of the Internal Revenue Code.

(3) Take any and all other actions they deem necessary and feasible.

(Formerly Section 31899.8, added by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.7 and amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 17)

§31899.8. Legislative intent; compliance with I. R. C.; legislative findings and declarations; costs

It is the sole intent of the Legislature, in enacting this chapter, to fully comply with the provisions of the Internal Revenue Code that apply to public retirement systems in order to maintain and ensure the federal income tax exempt status of the county employees' retirement systems, to elect the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code, and to require that each county and district provide benefits that replace the benefits that are limited by Section 415 of the Internal Revenue Code for affected members of the county employees' retirement systems.

The Legislature finds and declares that all costs of local public agencies and local public retirement systems of complying with Section 415 of the Internal Revenue Code are a federal mandate within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2, as construed in *City of Sacramento v. State of California* (50 Cal. 3d 51).

It is the intent of the Legislature that this chapter not be construed to impose upon local public agencies that are maintaining county retirement systems pursuant to Chapter 3 (commencing with Section 31450) of this part, state-reimbursable, state-mandated local program benefit costs within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2.

If either the Commission on State Mandates or a court determines that this chapter imposes upon any local agency, state-mandated local program benefit costs, notwithstanding any other provision of law, no reimbursement therefor shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 or from any other state fund.

(Formerly Section 31899.9, added by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 3, Effective September 13, 1990)

(Renumbered Section 31899.8 and amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 18)

§31899.9. Amendment of chapter; reservation of power; memorandums of understanding

The Legislature reserves the power and right to amend this chapter, as needed to effect its purposes. This chapter shall be controlling over any memorandum of understanding reached between employers and employees pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.

(Formerly Section 31899.10, added by Stats. 1990, Ch. 797 (S.B. 2327), Sec. 3, Effective September 13, 1990)

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

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