

2012 Edition County Employees Retirement Law

The 2012 edition of the County Employees Retirement Law of 1937 contains all additions and amendments made by the legislature in 2011.

This package includes:

- Legislative Updates
- State of California County Classification
- Table of Contents
- Index
- All CERL laws per article

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**COUNTY EMPLOYEES
RETIREMENT LAW
OF 1937**

GOVERNMENT CODE

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

Sections 31450-31899.10

Includes Additions and Amendments of 2011

Effective January 1, 2012

2012 Edition

County Employees Retirement Law Legislative Updates

Legislation enacted in 2011 *added* or *amended* the following sections of the County Employees Retirement Law of 1937. These additions and amendments became effective January 1, 2012, unless otherwise indicated.

Article/Section	Added/Amended	Bill	Page
Article 1	General		
31459.1	Amended	SB 637	7
31484.9	Amended	SB 373	35
31485.10	Amended	AB 89 urgency eff. 10-2-11	39
31485.18	Added	AB 329 urgency eff. 6-13-11	43
Article 3	Retirement Board		
31520.1	Amended	SB 203	103
31520.2	Amended	SB 203	105
31520.3	Amended	SB 203	105
31520.4	Amended	SB 203	106
31520.5	Amended	SB 203	106
31523	Repealed and added	SB 203	111
31523.1	Added	SB 203	111
31535.1	Amended	SB 637	115

STATE OF CALIFORNIA COUNTY CLASSIFICATION

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

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

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

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COUNTY EMPLOYEES RETIREMENT LAW OF 1937

Article 1. General

§31450. Short Title

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

§31451. Purpose

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

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

§31452. Retirement allowances exempt from taxation and other process

The right of a person to a pension, annuity, retirement allowance, return of contributions, the pension, annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under this chapter, the money in the fund created or continued under this chapter, and any property purchased for investment purposes pursuant to this chapter, are exempt from taxation, including any inheritance tax, whether state, county, municipal, or district. They are not subject to execution or any other process of court whatsoever except to the extent permitted by Section 31603 of this code and Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this chapter.

(Amended by Stats. 1982, Ch. 497, Sec. 117; Operative July 1, 1983, by Ch. 497, Sec. 185)
(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec.1)

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

The board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter, authorizing the treasurer or other entity authorized by the board to deduct a specified amount from the retirement allowance or benefit payable to any retired member or beneficiary of a retired member for the purpose of paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer, for any prepaid group medical or hospital service plan, or both, for any vision care program or dental plan, approved by the board, for the benefit of the retired member or his or her dependents, for the payment of premiums on national service life insurance or United States government converted insurance, for the purchase of shares in or the payment of money to any regularly chartered credit union, for charitable organizations or federally chartered veterans' organizations as approved by both the board of retirement and the board of supervisors, or for the purchase of United States Savings Bonds, or for the payment of personal income taxes to the government of the United States or of the State of California, and each month shall draw his or her order in favor of the insurer, institution, credit union,

or government named in the written authorization for an amount equal to the deductions so authorized and made during the month. The board may charge a reasonable fee for the making of the deductions and payments.

(Amended by Stats. 1989, Ch. 121, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 1)

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

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

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

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

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

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 2)

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

§31452.65. Issuance of duplicate for lost or destroyed warrant

Upon receipt of proof, satisfactory to the board, that a warrant or check drawn in payment of a retirement allowance or in payment of any other account due from the retirement system has been lost or destroyed, the treasurer or other entity authorized by the board upon request of the board of retirement shall as provided by Section 31590 issue a duplicate warrant or check bearing the same date as the original in payment of the same amount, without requiring a bond from the payee, and the treasurer or other entity authorized by the board shall pay the duplicate in lieu of the original warrant or check and any losses incurred by reason of the issuance of duplicate warrants or checks shall be a charge against the account from which the payment is derived.

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

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

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

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

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

(b) Upon the death of any person receiving a survivor's allowance under this chapter,

any allowance earned but not yet paid to the survivor shall, notwithstanding any other provision of law, be paid to the survivor's designated beneficiary.

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

§31453. Actuarial valuation; recommendation in change of rate of interest; contributions and appropriations; exception

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

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

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

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

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

§31453.5. Normal contribution rate; computation

Notwithstanding Section 31587, and in accordance with Section 31453 or 31510.1, the board may determine county or district contributions on the basis of a normal contribution rate which shall be computed as a level percentage of compensation which, when applied to the future compensation of the average new member entering the system, together with the required member contributions, will be sufficient to provide for the payment of all prospective benefits of such member. The portion of liability not provided by the normal contribution rate shall be amortized over a period not to exceed 30 years.

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

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

Notwithstanding any other provision of this chapter, the board of retirement may, at the request of the board of supervisors, adopt a funding period of 30 years to amortize unfunded accrued actuarial obligations, as determined by their actuary or by an actuary employed by the board of investments, for benefits applicable to all membership categories for the purpose of determining employer contribution rates for counties and districts. The board of retirement shall approve a new amortization period based upon a request from the board of supervisors

that demonstrates a financial necessity. The board of retirement may deny a request when the request would subject the fund to an unsound financial risk. A board of retirement may take an action pursuant to this section only once.

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

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

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

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

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

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

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

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

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

(b)(1) The independent assumptions and calculations of an actuary contained in the actuarial valuation required by Section 31453 shall not be subject to the “meet and confer” provisions of the Meyers-Milias-Brown Act; however, it is recognized that those provisions require that the governing body of a district within the county system that is not governed by the board of supervisors meet and confer with representatives of recognized employee organizations prior to determining a course of action with respect to the recommendations contained in the actuarial valuation.

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

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

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

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

§31454.5. Additional appropriations by board to fund deficits

In any county subject to the provisions of Section 31676.1, 31676.11, 31676.12, or 31695.1 the board of supervisors may, by vote entered in the minutes of the board, make an additional

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

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

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

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

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

§31455. Controlling definitions and general provisions

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

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

§31455.5. Fraud against county retirement systems

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

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

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

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

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

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

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

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

may be collected.

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

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

§31456. "Actuarial equivalent" defined

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

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

§31457. "Annuity" defined

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

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

§31458. "Beneficiary" defined

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

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

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

If, after December 31, 1957, and either before or after retirement a member dies leaving a spouse and has not designated a beneficiary, and, prior to the payment of any portion of the death benefit, such spouse files with the board written evidence, satisfactory to the board, that she or he is the surviving spouse and the date of the marriage, such surviving spouse shall be deemed, for the purposes of this chapter, to have been nominated as the beneficiary by such member.

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

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

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

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

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

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

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

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

(a) A member's ex-spouse who is receiving or is entitled to receive payments from the system, including a portion of the surviving spouse's allowance, pursuant to an order of the

court dividing the community property interest in the member's retirement allowance may designate one or more beneficiaries who shall receive those payments following the death of the ex-spouse. If there is no designated beneficiary, payment shall be made to the estate of the ex-spouse. Those payments shall terminate upon the death of the member or the surviving spouse.

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

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

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

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

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

§31459. "Board" defined

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

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

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

(3) Sections 31510.4, 31522, 31523, 31524, 31525, 31528, 31529, 31529.5, 31595, 31618, 31680, and 31680.1 apply to both the board of retirement and board of investments, and "board" means both "board of retirement" and "board of investments."

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

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

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

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

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

§31459.1. Board (Los Angeles)

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

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

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

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

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

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

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

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

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

§31460. "Compensation" defined

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

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

§31461. "Compensation earnable" defined

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 1993, Ch. 396, Sec. 4)
(Amended by Stats. 1994, Ch. 1100 (SB 2003), Sec. 1)
(Amended by Stats. 2006, Ch. 538 (SB 1852), Sec. 303)

§31461.2. “Compensation earnable” defined

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

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

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

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

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

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

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

(Amended by Stats. 2000, Ch. 966 (A.B. 2331), Sec. 2)

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

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

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

(b) Notwithstanding Sections 31460 and 31461, neither “compensation” nor

“compensation earnable” shall include any increase, made on or after January 1, 1996, in cafeteria or flexible benefit plan contributions for any member represented by a certified employee organization, nor shall they include any increase in cafeteria or flexible benefit plan contributions made on or after January 1, 1995, for any member not represented by a certified employee organization, provided that the nonrepresented member waives the applicability of Sections 31460 and 31461 in writing prior to receiving any cash payment based on the increase.

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

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

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

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

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

Earnings Code No.	Title
099	Patrol Station Retention Bonus
358	Temporary Promotion Bonus
359	Lifeguard Paramedic, Catalina
503	Uniform Allowance
504	Night Shift Differential
505	Coroner’s Inquest Reporter
507	Co-Generation or Hydro-Electric Ops and Mtce
508	Henninger Flats Watchman
509	Freezer Work
510	Department Head Merit
511	Board of Supervisors Performance Lump Sum
512	Fire Suppression Transportation Truck Driver
514	Backhoe Operator
516	Explosives Work
517	Evening Shift Differential
518	Power Equipment Repair, Snow Conditions

Earnings Code No.	Title
519	Engineering Employees, Hazard Pay
520	Home Care Compensation
522	Custodian Acting As Watchman
523	DPD Deputy Director Recruitment Incentive
525	Contracting and Productivity Improvement Incentive for Managers
528	WEBCOM Press Operator
529	Power Equipment Operator, Fire Suppression
530	RN Extra Weekends Worked
531	Standby
532	Additional Responsibilities or Exceptional Performance
533	Power Sweeper Operator in Emergency Conditions
534	Power Plant Relief Engineer
535	Clinic Physician, First Hour and One-Half
536	Consulting Specialist, MD, & Mental Health Consultant, MD, First And Fifth Hours
538	RN Assigned as Acting or Relief Charge Nurse
539	RN Weekend Differential
540	Relief Nurse Holiday Differential (Hourly Item)
541	Relief Nurse Weekend Differential (Hourly Item)
544	Appraisers Laundry and Dry Cleaning Allowance
545	Heavy Duty Tow Truck Driver
546	Slurry Seal Truck Driver
547	Lifeguard Paramedic - Shift
548	Lifeguard Paramedic - Hourly
550	Incentive Awards For Medi-Cal Reimbursements, Health Services
551	Group Incentive Award, Treasurer Tax Collector
553	Pioneer Excavation, Tunnel Operations, Fire Suppression and Snow Removal - Construction Inspection and Surveying Groups
554	Pioneer Excavation, Tunnel Operations, Fire Suppression and Snow Removal
555	Scaffold or Swing Stage, 30 Feet Above Grade
556	High Scale and Rigging Operations, General
557	Evening Shift, Med Tech
558	Night Shift, Med Tech
565	Paramedic Recertification Bonus
567	Deputy Sheriff Reserve Annual Compensation
570	Home Care Program Standby
571	CSW Licensure Supervision
572	MOU Lump Sum Bonus
601	Lifeguard Paramedic, Relief
602	Supervising Transportation Deputy Performing Dispatcher Duties
603	Automotive Service Excellence Certificates
604	RN Mobile Intensive Care Certification
605	Custodian Floor Waxing Bonus
606	Fire Equipment Mechanic Assigned Field Repair Duties
607	SDPO Assigned Acting Director In A Camp
608	Bilingual Bonus

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

Earnings Code No.	Title
None	Park, Taxable
None	Prior Salary
None	Transportation Allow
None	Traffic Mitigation

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

(c) No item of remuneration included in “compensation earnable” as a result of the court-approved settlement and as set forth in the resolution described above in subdivision (b) may be removed therefrom as a result of any subsequent judicial determination, except that a county of the first class and a recognized employee organization may agree only through a memorandum of understanding to exclude the item of remuneration from “compensation earnable” or the Board of Supervisors may adopt a resolution excluding the item of remuneration from “compensation earnable” with respect to nonrepresented employees.

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

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

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

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

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

§31461.6. Compensation earnable; defined

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

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

§31462. “Final Compensation” defined

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§31463. "Normal contributions" defined

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

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

§31464. "Accumulated normal contributions" defined

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

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

§31465. "Additional contributions" defined

"Additional contributions" means contributions made by members in addition to normal contributions under Sections 31504 and 31627.

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

§31466. "Accumulated additional contributions" defined

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

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

§31467. "Accumulated contributions" defined

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

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

§31468. "District"

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

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

(c) "District" also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.

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

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

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

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

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

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

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

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

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

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board may not grant that credit for that prior service unless the request for that credit is made to, and the required payment deposited with, the elected retirement association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830).

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

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and January 1,

1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.

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

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

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

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

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

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

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

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

§31469. "Employee" defined

(a) "Employee" means any officer or other person employed by a county whose compensation is fixed by the board of supervisors or by statute and whose compensation is paid by the county, and any officer or other person employed by any district within the county.

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

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

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

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

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

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

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

§31469.1. County peace officer defined

(a) "County peace officer" means the sheriff and any officer or employee of the sheriff's office of a county employed and qualifying as a constable or deputy constable or marshal or deputy marshal or deputy sheriff or equal or higher rank, irrespective of the duties to which

that person may be assigned, excepting, however, those employees whose principal duties are those of a telephone operator, clerk, stenographer, machinist or mechanic.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

public defender, the alternate public defender, or any similar office title.

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

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

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

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

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

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

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

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

§31469.3. "Safety member" defined

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

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

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

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

(Added by Stats. 1951, Ch. 1098, Sec. 4)

(Amended by Stats. 1970, Ch. 396, Sec. 1)

(Amended by Stats. 2002, Ch. 1152 (A.B. 2023), Sec. 10)

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

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

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

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

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

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

probation officers, as provided in Section 31469.4.

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

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

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

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

(3) An employee who elects safety retirement under Section 31469.4 may elect to receive credit as a safety member for all or part of the time during which his or her duties would have made him or her eligible to become a safety member if this section had then been in effect as provided in Section 31639.7, except that an election to receive part credit may be exercised only in multiples of five years of service. A member who elects to receive credit for only a part of that county service shall elect that county service latest in time and may not receive credit for any portion of county service prior in time to any county service for which he or she does not elect to receive credit.

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

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

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

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

1, 1991, pursuant to Sec. 3 of Ch. 344)
(Amended by Stats. 1999, Ch. 116 (A.B. 947), Sec. 1)
(Amended by Stats. 2000, Ch. 135 (A.B. 2539), Sec. 78)

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

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

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

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

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

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

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

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

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

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

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

§31470. "Member" defined

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

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

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

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

peace officer members said special provisions shall apply.

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

§31470.2. Persons eligible (All, San Diego, Sacramento)

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

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

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

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

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

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

(a) All sheriffs, undersheriffs, assistant sheriffs, chief deputy sheriffs, captains, lieutenants, sergeants, jailers, turnkeys, deputy sheriffs, bailiffs, constables, deputy constables, motorcycle officers, aircraft pilots, detectives, and investigators in the office of the district attorney, and marshals and all regularly appointed deputy marshals, who are first so employed on or after the operative date of this section in a county, are eligible. This section is an alternative to Section 31470.2.

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

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

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

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

§31470.3. Persons ineligible (All, San Diego)

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

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

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

§31470.4. Persons eligible

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

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

§31470.5. Persons ineligible

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

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

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

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

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

(b) In a county with a population in excess of four million, the provisions of subdivision (a) shall also apply to persons employed under the titles and to perform the duties of division chief-public safety, assistant division chief-public safety, or district manager-public safety.
(Amended by Stats. 1990, Ch. 219, Sec. 1)

§31470.7. Status as “member” during public or county service

The election by a member to receive credit for employment in public service or in county service pursuant to Section 31641.1 or 31641.5 does not make such person a member during any part of such public service or county service.
(Added by Stats. 1955, Ch. 363, Sec. 1)

§31470.8. Determination of eligibility

In cases of doubt as to whether a person is eligible to become a safety member, the board shall decide.
(Added by renumbering Section 31470.6 by Stats. 1957, Ch. 1301, Sec. 3)

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

All public administrators, coroners and coroner-public administrators, whether compensated on a fee or salary basis, are eligible, except that the membership of such persons is subject to the approval of the board of supervisors.
(Added by Stats. 1961, Ch. 2095, Sec. 2)

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

Notwithstanding Section 31470.2, all welfare fraud investigators and administrators budgeted within Orange County shall be eligible, regardless of which county department actually supervises or funds them, and shall receive those benefits upon a majority vote of the board of supervisors.
(Added by Stats. 1980, Ch. 235, Sec. 1)
(Amended by Stats. 2003, Ch. 171 (A.B. 144), Sec. 1)

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

Notwithstanding Section 31470.2, all welfare fraud investigators and administrators in counties of the 16th class, as described by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, shall be ineligible for safety membership, unless and until the board of supervisors shall elect, by resolution adopted by a majority vote, to make those investigators and administrators eligible.
(Amended by Stats. 2000, Ch. 379 (A.B. 1947), Sec. 1)

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

Child support investigators and administrators in counties of the 16th class, as described by Section 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, are eligible.
This section shall not be operative in any county until such time as the board of supervisors shall elect, by resolution adopted by a majority vote, to make this section applicable in the county.
(Added by Stats. 1987, Ch. 938, Sec. 2)
(Amended by Stats. 2000, Ch. 379 (A.B. 1947), Sec. 3)

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

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

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

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

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

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

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

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

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

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

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

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

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

§31471. "Pension" defined

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

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

§31472. "Regular interest" defined

"Regular interest" means interest at 2 1/2 percent a year until otherwise determined by the board compounded semiannually on June 30th and December 31st.

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

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

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

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

§31473. "Retirement allowance" defined

"Retirement allowance" means the pension plus the annuity.

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

§31474. "Retirement association" defined

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

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

§31475. "Retirement fund" defined

"Retirement fund" means the Employees Retirement Fund.

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

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

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

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

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

§31477. "Salary fund" defined

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

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

§31478. "Public agency" defined

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

Section 31468 does not apply to this section.

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

§31479. "Public service" defined

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

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

§31479.1. Credit for service as unpaid city councilman

Notwithstanding Section 31479, an elective or appointive county official may receive credit for service rendered as a city council member even though that service was not compensated. This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

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

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

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

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

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

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

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

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

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

§31480. Service requirements

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

sufficient to meet the minimum requirements of this chapter covering each of the benefits enumerated in this section.

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

§31481. Effect of amendment of chapter

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

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

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

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

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

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

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

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

§31482.5. Supplemental Defined Benefit Plan; Application; Concurrent participation with public retirement system plan; credit for service

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

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

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

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

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

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

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

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

§31483. Termination of optional provisions

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

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

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

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

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

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

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

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

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

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

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

This section shall not be applicable to safety members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated,

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

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

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

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

This section shall not be applicable to safety members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to that county or district through the adoption of an ordinance or resolution, the governing body may at any time thereafter adopt another ordinance or resolution terminating the applicability of that provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of the provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits

pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter.

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

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

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

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

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

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

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

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

A former employee who has elected retirement from the higher benefit level and who returns to covered employment shall return to the higher benefit level. The benefit levels described in this section are those in existence on July 1, 1983. This section shall only be

applicable to a county of the fourth class as described by Sections 28020 and 28025.

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

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

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

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

(2) The terms of any agreement reached with the Contra Costa County Deputy Sheriffs' Association pursuant to this subdivision shall be made applicable by the board of supervisors to unrepresented county employees who are safety members in the Contra Costa County Sheriff's Office and in similar job classifications as employees within applicable bargaining units and the supervisors and managers of those employees.

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

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

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

(3) The board of supervisors shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that the member has been fully informed regarding the effect of the termination, and understands that the termination of a provision or provisions is irrevocable. The affidavit shall also state that the employee has

chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person and shall waive and release any right to a benefit under the terminated provision or provisions for the period of service following the election.

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

(5) Employees who elect to have the provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the board of supervisors. Except as otherwise provided in this section, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service and the retirement allowance for service rendered on or after the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service. The total retirement allowance for an employee subject to this section shall be the sum of the retirement allowance calculated for service rendered prior to the effective date of the election and the retirement allowance calculated for service rendered on or after the effective date of the election. Any employee who has made an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement.

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

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

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

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

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

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

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

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

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

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

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

A current employee who has elected to have the applicability of such provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution. Any such election made

by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement.

This section shall not be applicable to safety members.

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

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

§31485.5. Defined contribution plans; administration; legislative intent

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

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

§31485.6. Treasurer

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

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

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

(a) Notwithstanding any other provision of this chapter, a member who elects to purchase retirement service credit under Section 31486.3, 31486.35, 31499.3, 31499.13, 31641.1, 31641.5, 31641.55, 31646, 31652, or 31658, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

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

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

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

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

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

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

§31485.8. Retirement service credit; Time frame of purchase; application of section (Los Angeles)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 2011, Ch. 390 (AB 89), Sec. 1 – Urgency Statute, Effective October 2, 2011)

§31485.11. (Repealed January 1, 2010) Retirement benefits for some safety member bargaining units for 4th class and 25th class counties

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

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

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

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

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

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

extends that date.

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

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

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

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

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

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

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

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

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

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

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

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

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

§31485.14. Internal Revenue Code Compliance; Distributions

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

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

(b) The form of distribution of benefits.

(c) Incidental death benefits.

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

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

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

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

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

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

(a) Notwithstanding any other provision of this chapter, in a county of the fourth class, as defined in Sections 28020 and 28025, as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may, by resolution adopted by majority vote, as part of any negotiated memorandum of understanding with a bargaining unit that represents safety employees, require a safety employee of that bargaining unit or unrepresented safety employee hired after approval of the resolution, to elect in writing, either the pension calculation stated in Section 31664 or the pension calculation stated in Section 31664.2. The election shall be made within 45 calendar days of beginning employment with the county. If a new safety employee does not elect the pension calculation stated in Section 31664.2 within 45 days of beginning employment, the new safety employee shall be deemed to have elected the pension calculation stated in Section 31664. Once made, a safety employee under this section shall not be permitted to rescind his or her election.

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

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

(d) A resolution adopted pursuant to this section or previously adopted resolutions of the board may require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified within this chapter were or have been adopted by resolution. The payment by a member shall become part of the accumulated contributions of the member. For those members who are represented

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 1.4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§31486.1. Definitions (Santa Barbara)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A member who elects to receive service credit pursuant to this section shall have the

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

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

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

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

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

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

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

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

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

(a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

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

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

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61

Age	ERA Factor
61	.67
62	.74
63	.82
64	.90

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

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

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

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

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

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

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

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

Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until that person certifies to the board an election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the

certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting the election.

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

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

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

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

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

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

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

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

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

§31486.11. Employer contribution (Santa Barbara)

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

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

§31486.12. Severability (Santa Barbara)

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

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

Article 1.5

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

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

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

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

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

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

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

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

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

- (1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.
- (2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.
- (3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.
- (4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.
- (5) Article 16.5 (commencing with Section 31870) of this chapter shall not be

applicable.

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

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

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

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

§31488. Definitions (Los Angeles)

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

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

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

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

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years

in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(c) For the purposes of subdivision (b) of Section 31491, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit that has been approved by the employer, shall not be considered an interruption of service. However, a payroll period in which no compensation is received by a member shall not be

considered as service in calculating the benefits otherwise provided under this article.

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

(Amended by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 8)

(Amended by Stats. 2010, Ch. 86 (AB 1902), Sec. 2)

§31490.5. (Operative date contingent) Contributions; Service credit

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

(b) Any member who elects to receive service credit pursuant to this section shall have the same purchase rights and shall contribute to the retirement fund the amount that a member in the contributory plan wishing to purchase the same service would have to contribute, based on the rates applicable to a member of the contributory plan with the same date of entry into membership. Payment shall be made by lump-sum payment or by installment payments over a period not to exceed 10 years, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.8.

(c) No member may receive any service credit under this section for which he or she has not completed payment pursuant to subdivision (b) before the effective date of his or her retirement or, if applicable, before the date provided in Section 31485.8. Subject to the limitations of federal law, a member who has elected to make payments in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

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

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

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

(Added by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 9)

(Amended by Stats. 2006, Ch. 369 (S.B. 777), Sec. 3)

§31490.6. (Operative date contingent) Additional Retirement Credit: Eligibility, Procedure

(a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

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

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

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

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.8. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

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

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

(Added by Stats. 2006, Ch. 117 (A.B. 2240), Sec. 6)

§31490.7. Death of member; Payment of contributions to member's beneficiaries

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

(Added by Stats. 2008, Ch. 72 (A.B. 2041), Sec. 2)

§31491. Retirement; time of vesting; eligibility; application; benefits (Los Angeles)

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

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

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

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

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

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

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

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

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

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

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

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

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

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

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

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

§31491.1. Adjustment of member's retirement benefit according to member's actual primary insurance amount (Los Angeles)

(a) Notwithstanding Section 31491, any retired member receiving a retirement pension may present evidence in the form required by the board of the retired member's actual primary insurance amount. For the purposes of this section, the actual primary insurance amount shall be the amount being paid under the federal system. Following receipt of that evidence, the board shall adjust the retired member's pension to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual insurance amount.

(b) The adjustment calculated in subdivision (a) shall be applied to the retired member's pension beginning in the month upon which the retired member presents evidence required by the board.

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

(Added by Stats. 2001, Ch. 31 (A.B. 1214), Sec. 1)

§31491.2. Adjustment of member's retirement benefit according to member's federal estimated primary insurance amount (Los Angeles)

(a) Notwithstanding Section 31491, any retired member receiving a retirement pension may present evidence in the form required by the board of the retired member's federal estimated primary insurance amount provided that the retired member is not receiving a federal primary insurance amount. For the purposes of this section, the federal estimated primary insurance amount shall be the amount payable under the federal system as of the retired member's normal federal retirement age. Should the federal estimated primary insurance amount equal zero, the retired member shall not have his or her pension benefit reduced for an estimated primary insurance amount as required in subdivision (e) of Section 31491.

(b) Following receipt of that evidence, the board shall adjust the retired member's pension to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount calculated in Section 31491 equaled zero.

(c) The adjustment calculated in subdivision (a) shall be applied to the retired member's pension beginning in the month upon which the retired member presents evidence required by the board.

(d) Notwithstanding subdivision (a), upon attaining federal retirement age, the retired member shall submit any evidence as may be required by the board of the retired members' federal estimated or actual primary insurance amount. Following receipt of that evidence, the board shall adjust the retired member's pension in accordance with subdivision (j) of Section 31491.

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

(Added by Stats. 2001, Ch. 31 (A.B. 1214), Sec. 2)

§31491.3. Early retirement pension; amount; members who have and have not attained age of 62 years; application and operative effect (Los Angeles)

(a) Notwithstanding subdivision (f) of Section 31491, for those members retiring on or after the operative date of this section, the early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount that is the actuarial equivalent of the normal retirement pension to which the retired member would

be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	ERA Factor
55	.3748
56	.4109
57	.4511
58	.4957
59	.5454
60	.6009
61	.6631
62	.7328
63	.8113
64	.8998

(b) For those members retiring on or after the operative date of this section, paragraph (2) of subdivision (g) of Section 31491 shall not apply, but with regard to those members who have not attained the age of 62 years as of the date of retirement (1) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of employment of a vested member, whichever is applicable, until the member attains the age of 62 years, and (2) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of employment of a vested member, whichever is applicable, until the member attains the age of 62 years, and (3) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(c) Notwithstanding subdivision (e) or subdivision (j) of Section 31491, any member who retires on or after the operative date of this section, and after attaining the age of 62 years may, as soon as possible but not later than six months following retirement, present evidence required by the board demonstrating the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount actually payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work, or the estimate of that amount as set forth on a current earnings and benefits estimate statement provided by the Social Security Administration. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

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

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 2, Effective October 13, 2001, as an urgency statute)

§31492. Death benefits; election for lower pension to obtain different survivor allowance (Los Angeles)

(a)(1) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), (c) or (d), shall

be continued during and throughout the life of his or her surviving spouse, if she or he was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including every stepchild or adopted child, attains the age of 18 years, then the allowance that the spouse would have received had she or he survived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

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

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

(c)(1) A vested member, or vested former member, in lieu of the retirement allowance and survivor allowance, if any, otherwise payable to a retired member and his or her surviving spouse pursuant to this article, may elect to have the actuarial equivalent of these benefits, as of the date of retirement, applied to a lesser amount payable throughout the retired member's life and to an increased survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including every stepchild and adopted child, attains the age of 18 years, then the increased survivor allowance that the spouse would have received had he or she survived shall be paid to the deceased retired member's child or children under the age of 18 years. If the increased survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or attaining the age of 18 years.

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

(3) The election pursuant to this subdivision may not, in the opinion of the board and the actuary, place any additional burden upon the retirement system. If a member makes the election, the member's normal or early retirement benefit shall be reduced by the additional actuarial cost to the system resulting from the increased survivor allowance. The actuarial cost of the survivor allowance payable under this subdivision shall be calculated taking into account the life expectancy of the member's surviving spouse.

(4) This subdivision is not operative unless the county board of supervisors, by resolution adopted by a majority vote, makes this subdivision operative in the county. This subdivision applies only to members who retire after the operative date of this subdivision.

(d) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone and the survivor allowance, if any, that would be

payable under subdivision (a) or (c), may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and to a survivor allowance as approved by the board, upon the advice of the actuary, that, upon the death of the retired member, shall continue throughout the life of and be paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement. The member's normal or early retirement benefit shall be reduced by the actuarial cost of the survivor allowance elected.

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

(Amended by Stats. 2004, Ch. 152 (S.B. 1260), Sec. 1)

§31492.1. Monthly survivor allowance; amount for members retiring on or after operative date of section; application and operative effect (Los Angeles)

(a) Notwithstanding the provisions of Section 31492, each monthly survivor allowance paid pursuant to subdivision (a) of Section 31492 on account of a member who retires on or after the operative date of this section shall be equal to 55 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (c) or (d) of that section.

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

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 3, Effective October 13, 2001, as an urgency statute)

(Amended by Stats. 2004, Ch. 152 (S.B. 1260), Sec. 2)

(Amended by Stats. 2005, Ch. 22 (S.B. 1108), Sec. 89)

§31492.2. Monthly survivor allowance; amount for members retiring before operative date of section; application and operative effect (Los Angeles)

(a) Notwithstanding the provisions of Section 31492, each monthly survivor allowance paid on or after the operative date of this section pursuant to subdivision (a) of Section 31492 on account of a member who retires before the operative date of this section shall be equal to 55 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b) of that section.

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

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 4, Effective October 13, 2001, as an urgency statute)

§31493. Employment subsequent to effective date of article; certification of election of plan (Los Angeles)

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

(b) This section shall be applicable to persons who are eligible for membership and are employed prior to January 1, 1991.

(Amended by Stats. 1990, Ch. 218, Sec. 1)

§31493.5. Certification of election to be covered; provision of retirement plan materials (Los Angeles)

(a) Any person employed who qualifies as a member shall certify to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members as of the date of employment. Any person who dies prior to certifying his or her election or who fails to certify his or her election within the period set forth in subdivision (b) shall, as of the date of death or the day immediately following the last day to certify his or her election, be deemed to have elected to be covered by the retirement plan established by this article.

(b) The election required to be made by subdivision (a) shall be certified to the board:

(1) Within 30 days of employment if written disclosure materials are provided by the employer pursuant to subdivision (c) within 14 days of employment, or

(2) Within 30 days of the receipt of written disclosure materials provided by the employer if the employer fails to provide written disclosure materials within 14 days of employment as required by subdivision (c).

(c) The employer shall, within 14 days of the date of employment, provide to each person who qualifies as a member, written disclosure materials of the elements of each of the available retirement plans.

(d) This section shall be applicable to persons eligible for general membership in Plans D and E who become employed on or after January 1, 1991, and prior to January 1, 1992, and to persons who were employed prior to January 1, 1991, who first became eligible for membership on or after January 1, 1991, and before January 1, 1992.

(Amended by Stats. 1991, Ch. 1108, Sec. 4, Effective October 14, 1991)

§31493.6. Persons qualifying as members but not electing to be covered by available retirement provisions and benefits; death prior to certifying election; provision of retirement plan materials; elections to be covered by other retirement plans; application of section (Los Angeles)

(a) Any person who qualifies as a member, and who has not elected to be covered by the retirement provisions and benefits available to members, shall become a member of the plan established by this article as of the first day of the month following the date of employment or date of eligibility for membership. Any person who dies prior to certifying his or her election shall be deemed to have elected to be covered by the retirement plan established by this article.

(b) The employer shall, within 14 days of the date of employment or eligibility for membership, provide to each person who qualifies as a member, written disclosure materials of the elements of each of the available retirement plans.

(c) Any person who has been enrolled in the plan provided for in this article pursuant to subdivision (a) may elect to be covered by any other retirement plan to which he or she is otherwise eligible, provided that the election is made in writing and filed with the board within 60 days from his or her beginning date of employment or eligibility for membership, or within 45 days after receipt from the employer of the materials required by subdivision (b), whichever is later. Any person who makes the election shall be deemed to be a member of the elected plan as of the first day of the month following the date of employment or eligibility, and the county auditor shall make appropriate deductions from the member's future salary warrant to cover the member's contributions applicable to the period that the member was deemed to be

included in the plan covered by this article.

(d) This section shall be applicable to persons eligible for general membership who become employed on or after January 1, 1992, and to persons who were employed prior to January 1, 1992, but who did not become eligible for membership until January 1, 1992, or later.

(Added by Stats. 1991, Ch. 1108, Sec. 5, Effective October 14, 1991)

§31494. Transfer to Plan E by general members; operative dates of section (Los Angeles)

(a) General members may elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. That transfer is voluntary and shall be irrevocable.

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

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, transferring members shall receive credit for public service performed prior to the transfer, including service with the employer, military service, and other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) This section shall be operative at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative.

(e) This section shall be superseded by Section 31494.2 in any county when Section 31494.2 becomes operative in the county.

(Amended by Stats. 1984, Ch. 58, Sec. 1, Effective March 28, 1984)

(Amended by Stats. 2001, Ch. 778 (A.B. 399), Sec. 5, Effective October 13, 2001 as an urgency statute)

§31494.1. Transfer of general members in noncontributory plan to contributory plan; retirement benefits; retirement service credit; contributions; rights to benefits; payment of contributions after death; operative date (Los Angeles)

(a) In accordance with the provisions of this section, general members, whose retirement benefits are governed by the noncontributory plan created by this article, may transfer to the contributory plan. Contributory plan shall mean that contributory plan otherwise available to new members of the retirement system on the election date. Transfer may be made by election upon written application executed by the member and filed with the board on or before the election date and shall be effective on the transfer date, subject to the terms and conditions set forth in this section. The election date shall be that date identified in the resolution adopted by the board of supervisors declaring this section to be operative. The transfer date shall be that date on which the member completes deposit of all contributions required by Section 31494.3. The election is voluntary and may be revoked upon written notice received by the board prior to the transfer date.

(b) The retirement benefits of members electing to transfer and transferred members shall be governed and defined by this section. In the event of conflict, this section shall supersede and prevail over other provisions, or application of provisions, otherwise contained in this article.

(c) Transferred members relinquish, waive, and forfeit any and all vested or accrued benefits available under any other retirement plan provided to members of the retirement system, and shall be entitled only to the benefits available under the contributory plan.

(d) Transferred members shall receive retirement service credit for that period of service with the employer, for which the members were otherwise eligible to receive credit under the plan created by this article. Transferred members shall also receive retirement service credit for that period of service for which the member made contributions pursuant to Section 31490.5.

(e) Transferred members may receive retirement service credit for service other than that with the employer, for which the members were credited or were eligible to receive credit under the plan created by this article, by written application executed by the member and filed with the board on or before the election date.

(f) The employer, the members who have elected to transfer, and transferred members shall make contributions to the retirement fund in accordance with the rates, and in the same manner, as prescribed under the contributory plan. The monthly contributions shall commence for the month next following the transfer date or that date 120 days after the election date, whichever is earlier.

(g) For purposes of calculating member contributions required under Section 31494.3, the entry age of a transferred member shall be that entry age as reflected in the retirement records maintained on behalf of the board.

(h) Failure of a member to deposit the contributions at the time and in the manner required by subdivision (a) of Section 31494.2 or subdivision (a) of Section 31494.3 shall result in the cancellation of his or her election to transfer.

(i) Failure of a member to deposit the contributions at the time and in the manner required by subdivision (b) or (c) of Section 31494.3 shall result in the cancellation and forfeiture of his or her right to elect credit for other service under subdivision (e).

(j) Prior to the transfer date, the rights to retirement, disability, survivors, and death benefits of members who have made the election to transfer shall remain the same as defined and governed by this article. If those members die, terminate service, or make application for retirement prior to the transfer date, or fail to deposit all required contributions as required by Section 31494.3, all member contributions and regular interest shall be refunded to the member or member's survivor.

(k) Notwithstanding any other provision contained in this section or Section 31494.3, in the event of the death of a member who has elected to transfer prior to the transfer date, the spouse of the member, or the minor children of the member if no spouse survives the member, may elect to pay the balance of contributions required by Section 31494.3, and if the contributions are deposited in the retirement fund within 120 days after the death of the member, the spouse of the member, or if no spouse survives the member, the minor children of the member, shall be entitled to rights and benefits as if the deceased member had deposited all contributions required by Section 31494.3.

(l) Prior to the transfer date, the rights to retirement, disability, survivors, and death benefits of members who have made the election to transfer shall remain the same as defined and governed by this article. If those members die, terminate service, or make application for retirement prior to the transfer date, all member contributions and regular interest shall be refunded to the member or the member's survivor.

(m) This section shall be operative at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative.

(Added by Stats. 1984, Ch. 58, Sec. 2, Effective March 28, 1984)

(Amended by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 10)

§31494.2. Members whose benefits are governed by Retirement Plan D; election to change plan membership in Retirement Plan E; terms with respect to retirement, survivors', or other benefits; definitions; application and operative effect (Los Angeles)

(a) A general member whose benefits are governed by Retirement Plan D may, during a period of active employment, elect to change plan membership and become a member, prospectively, in Retirement Plan E. The election shall be made upon written application signed by the member and filed with the board, pursuant to enrollment procedures and during an enrollment period established by the board, which enrollment period shall not occur more frequently than once every three years for that member. The change in plan membership shall be effective as of the transfer date, as defined in subdivision (d). Except as otherwise provided in this section, the rights and obligations of a member who elects to change membership under this section shall be governed by the terms of this article on and after the transfer date. Prior to the transfer date, the rights to retirement, survivors', or other benefits payable to a member and his or her survivors or beneficiaries shall continue to be governed by Retirement Plan D.

(b) Except as otherwise provided in this section, effective as of the transfer date, a member who has transferred to Retirement Plan E pursuant to this section and his or her survivors or beneficiaries shall receive retirement, survivors', and other benefits that shall consist of: (1) the benefits to which they are entitled under the terms of Retirement Plan E, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan E, and (2) the benefits to which they would have been entitled under the terms of Retirement Plan D had the member remained a member of Retirement Plan D, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan D. Except as otherwise provided in this section, the calculation of the member's, survivors', or beneficiaries' benefits under each plan shall be subject to that plan's respective, separate terms, including, but not limited to, the definitions of "final compensation" and provisions establishing cost-of-living adjustments, establishing minimum retirement age and service requirements, and governing integration with federal social security payments. Notwithstanding the foregoing, the aggregate service credited under both retirement plans shall be taken into account for the purpose of determining eligibility for and vesting of benefits under each plan.

(c) Notwithstanding any other provision of Retirement Plan D or Retirement Plan E.

(1) A member who has transferred to Retirement Plan E pursuant to this section may not retire for disability and receive disability retirement benefits under Retirement Plan D.

(2) If a member who has transferred to Retirement Plan E pursuant to this section dies prior to retirement, that member's survivor or beneficiary may not receive survivor or death benefits under Retirement Plan D but shall receive a refund of the member's contributions to Retirement Plan D together with all interest credited thereto.

(d) As used in this section:

(1) "Period of active employment" means a period during which the member is actively performing the duties of a full-time or part-time employee position or is on any authorized paid leave of absence, except a leave of absence during which the member is totally disabled and is receiving, or is eligible to receive, disability benefits, either during or after any elimination or qualifying period, under a disability plan provided by the employer.

(2) "Retirement Plan D" means the contributory retirement plan otherwise available to new members of the system on the transfer date.

(3) "Retirement Plan E" means the noncontributory retirement plan established under this article.

(4) "Transfer date" means the first day of the first month that is at least 30 days after the date that the application is filed with the board to change plan membership under

subdivision (a).

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

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 6, Effective October 13, 2001, as an urgency statute)

§31494.3. Cost of contributions for members transferring to contributory plan, provision, deposit, amount; members applying for service credit relating to federal and military service; members applying for service credit relating to prior service and public service other than military and federal; operative date (Los Angeles)

(a) Members who have elected to transfer under Section 31494.1 shall be provided within 90 days of the election date the cost of contributions required for that period of all creditable service with the employer prior to the month for which monthly contributions are to commence, as prescribed in subdivision (f) of Section 31494.1, and shall deposit in the retirement fund, the amount hereinafter provided in this subdivision, by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement or, if applicable, the date provided in Section 31485.8, the date of termination, or the date of death. The amount shall equal the sum of the contributions a member would have made to the retirement fund for that length of time as that for which the member shall receive credit as service, computed in accordance with the rate of contribution applicable to the member under the contributory plan, based upon entry age, and in the same manner as prescribed under the plan as if the plan had been in effect during the entire period of all creditable service, together with regular interest thereon.

(b) All service previously purchased by the member pursuant to Section 31490.5, if any, shall be recalculated in accordance with the rate of contribution applicable to the member under the contributory plan, based upon the entry age, and in the same manner as prescribed under the plan as if the contributory plan had been in effect during the entire period of all creditable service, together with regular interest thereon. All contributions paid by the member pursuant to Section 31490.5, if any, shall be credited toward the amount owed under subdivision (a) and all periods of service credited under the plan created by this article shall be transferred to the contributory plan upon completion of payment of that amount.

(c) Any member who applies for service credit under subdivision (e) of Section 31494.1 relating to federal and military service, shall be provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement, date of termination, or death. The amount shall equal the sum of twice the contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age, to the monthly compensation first earnable by the member as of the most recent date of entry into the retirement system, multiplied by the number of months for which the member has elected to receive credit, together with regular interest thereon.

(d) Any member who applies for service credit under subdivision (e) of Section 31494.1, relating to prior service as defined in the bylaws of the board, other than qualifying service under Section 31490.5, and public service other than military and federal service, shall be

provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision, by lump sum or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement or, if applicable, prior to the date provided in Section 31485.8, the date of termination, or the date of death. The amount shall equal that sum of contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, calculated in the same manner as prescribed in the bylaws of the board relating to credit for prior service, except that such contribution shall be computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age.

(e) This section shall be operative in a county at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative in the county.

(Amended by Stats. 1991, Ch. 1108, Sec. 6, Effective October 14, 1991)

(Amended by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 11)

(Amended by Stats. 2006, Ch. 369 (S.B. 777), Sec. 4)

§31494.5. Members whose benefits are governed by Retirement Plan E; election to change plan membership to Retirement Plan D; benefit terms (Los Angeles)

(a) A general member whose benefits are governed by Retirement Plan E may, during a period of active employment, elect to change plan membership and become a member, prospectively, in Retirement Plan D. The election shall be made upon written application signed by the member and filed with the board, pursuant to enrollment procedures and during an enrollment period established by the board, which enrollment period shall not occur more frequently than once every three years for that member. The change in plan membership shall be effective as of the transfer date, as defined in subdivision (g). Except as otherwise provided in this section, the rights and obligations of a member who elects to change membership under this section shall be governed by the terms of Retirement Plan D on and after the transfer date. Prior to the transfer date, the rights to retirement, survivors', or other benefits payable to a member and his or her survivors or beneficiaries shall continue to be governed by Retirement Plan E.

(b) If a member has made the election to change plans under subdivision (a), monthly contributions by the member and the employer under the terms of Retirement Plan D shall commence as of the transfer date. For the purposes of calculating the member's contribution rate under Retirement Plan D, his or her entry age shall be deemed to be his or her age at his or her birthday nearest the transfer date; however, if the member exchanges service credit in accordance with subdivision (c), with regard to contributions made for periods after that exchange, his or her entry age shall be adjusted and deemed to be the member's age at his or her birthday nearest the date on which begins the most recent period of unbroken service credited under Retirement Plan D, taking into account service purchased under subdivision (c). In no event shall the exchange of service under subdivision (c) affect the entry age with respect to, or the cost of, employee contributions made, or service purchased, prior to the exchange.

(c) A general member who has elected to change plans under subdivision (a) also may elect to exchange, at that time or any time thereafter, but prior to the earlier of his or her application for retirement, termination from employment, or death, some portion designated in whole-month increments, or all of the service credited under Retirement Plan E for an equivalent amount of service credited under Retirement Plan D, provided, however, that the

member may not exchange less than 12 months' service or, if less, the total service credited under Retirement Plan E. The exchange shall be effective on the date when the member completes the purchase of that service by depositing in the retirement fund, by lump sum or regular monthly installments, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, or both, but in any event prior to the earlier of his or her death or the date that is 120 days after the effective date of his or her retirement, the sum of: (1) the contributions the member would have made to the retirement fund under Retirement Plan D for that length of time for which the member shall receive credit as service under Retirement Plan D, computed in accordance with the rate of contribution applicable to the member under Retirement Plan D, based upon his or her entry age, and in the same manner prescribed under Retirement Plan D as if that plan had been in effect during the period for which the member shall receive service credit, and (2) the regular interest thereon.

For the purposes of this subdivision, a member's entry age shall be deemed to be the member's age at his or her birthday nearest the date on which begins the most recent period of unbroken service credited under Retirement Plan D following completion of the service exchange under this subdivision.

A member may receive credit for a period of service under only one plan and in no event shall a member receive credit for the same period of service under both Retirement Plan D and Retirement Plan E. A member who fails to complete the purchase of service as required under this subdivision shall be treated as completing an exchange of service under Retirement Plan E for an equivalent amount of service under Retirement Plan D only with regard to the service that actually has been purchased through completed deposit with the retirement fund of the requisite purchase amount, calculated in accordance with this subdivision.

(d) Except as otherwise provided in this section, effective as of the transfer date, a member who has transferred to Retirement Plan D pursuant to this section and his or her survivors or beneficiaries shall receive retirement, disability, survivors', death, or other benefits that shall consist of: (1) the benefits to which they are entitled under the terms of Retirement Plan D, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan D, and (2) the benefits to which they would have been entitled under the terms of Retirement Plan E had the member remained a member of Retirement Plan E, but based on the member's service credited only under that plan, and payable at the time and in the manner provided under Retirement Plan E. Except as otherwise provided in this section, the calculation of the portion of a member's or beneficiary's benefit that is attributable to each plan is subject to that plan's respective, separate terms, including, but not limited to, the definitions of "final compensation" and provisions establishing cost-of-living adjustments, establishing minimum age and service requirements, and governing integration with federal social security payments. Notwithstanding the foregoing, the aggregate service credited under both Retirement Plan D and Retirement Plan E shall be taken into account for the purpose of determining eligibility for, and vesting of, benefits under each plan.

(e) Notwithstanding any other provision of Retirement Plan D or Retirement Plan E, a member who transfers into Retirement Plan D under this section may retire for service-connected or nonservice-connected disability and receive disability benefits under Retirement Plan D only if he or she has either (1) completed two continuous years of active service after his or her most recent transfer date, or (2) earned five years of retirement service credit under Retirement Plan D after his or her most recent transfer date. Notwithstanding any other provision to the contrary, a member who becomes disabled and does not meet either of these conditions (1) may apply for and receive only a deferred or service retirement allowance, or (2) may elect to transfer prospectively back to Retirement Plan E, and for the purposes of calculating his or her retirement benefits under this section, shall in lieu of credit under

Retirement Plan D be credited with service under Retirement Plan E as provided under subdivision (g) of Section 31488 during any period he or she is totally disabled and is receiving, or eligible to receive, disability benefits, either during or after any elimination or qualifying period, under a disability plan provided by the employer up to the earlier of the date he or she retires or no longer qualifies for disability benefits. If a member dies before he or she is eligible to retire and before completing either two continuous years of active service after the transfer date into Retirement Plan D or after earning five years of retirement service credit under Retirement Plan D after that transfer date, that member's beneficiary shall not be entitled to the survivor allowance under Section 31781.1 or 31781.12, if operative.

(f) Notwithstanding any other provisions of Retirement Plan D or Retirement Plan E, a member who has transferred to Retirement Plan D pursuant to this section and who retires for disability when eligible under this section and Retirement Plan D, may not also retire for service and receive service retirement benefits under Retirement Plan E. However, for the purpose of calculating disability benefits under Retirement Plan D, the "sum to which he or she would be entitled as service retirement" or his or her "service retirement allowance," as those terms are used in Sections 31726, 31726.5, and 31727.4, shall consist of the blended benefit to which the member would be entitled under subdivision (d) if he or she retired for service, not just the service retirement benefit to which he or she would be entitled under Retirement Plan D.

(g) As used in this section:

(1) "Active service" means time spent on active, on-the-job performance of the duties of a full-time or part-time position and on any authorized paid leaves of absence; provided, however, that any authorized paid leave of absence or part-time service shall not constitute active service if the leave of absence or part-time service is necessitated by a preexisting disability, injury, or disease. The board of retirement shall determine whether or not a leave of absence or part-time service is necessitated by a preexisting disability, injury, or disease, and thus excluded from the member's active service, based upon evidence presented by the employer and the member upon request by the board.

(2) "Entry age" means the age used for calculating the normal rate of contribution to Retirement Plan D with respect to a member who has transferred membership to Retirement Plan D under this section.

(3) "Period of active employment" means a period during which the member is actively performing the duties of a full-time or part-time employee position or is on any authorized paid leave of absence, except a leave of absence during which the member is totally disabled and is receiving, or is eligible to receive, disability benefits, either during or after any elimination or qualifying period, under a disability plan provided by the employer.

(4) "Retirement Plan D" means the contributory retirement plan otherwise available to new members of the retirement system on the transfer date.

(5) "Retirement Plan E" means the noncontributory retirement plan established under this article.

(6) "Transfer date" means the first day of the first month that is at least 30 days after the date that the application is filed with the board to change plan membership under subdivision (a).

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

(Added by Stats. 2001, Ch. 778 (A.B. 399), Sec. 7, Effective October 13, 2001, as an urgency statute)

(Amended by Stats. 2010, Ch. 86 (AB 1902), Sec. 3)

§31495. Employer contribution (Los Angeles)

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

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

§31495.5. Retirement or death allowances payable on or after operative date of section, to or on account of any member of Retirement Plan E who retires or dies or who has retired or died, as of April 1 each year; increase or decrease by amount equal to member's automatic COLA and as calculated by board of retirement before April 1 of each year; election to purchase elective COLA; amount of required contributions; allowances with respect to death and disability; definitions; application and operative effect (Los Angeles)

(a) Notwithstanding any other provision of this article, every retirement allowance or death allowance payable, on or after the operative date of this section, to or on account of any member of Retirement Plan E who retires or dies or who has retired or died shall, as of April 1 each year, be increased or decreased by an amount equal to that member's automatic COLA, as defined in subdivision (f) and as calculated by the board of retirement before April 1 of each year. No decrease in the cost of living shall reduce an allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance or the operative date of this section, whichever is later.

(b) A Retirement Plan E member may elect to purchase an elective COLA, as defined in subdivision (f), with regard to some portion (designated in whole-month increments) or all of his or her months of Retirement Plan E service earned prior to the operative date of this section. The member may also elect to purchase an elective COLA, as defined in subdivision (f), with regard to some portion (designated in whole-month increments) or all of his or her months of Retirement Plan E service purchased pursuant to Section 31490.5, including service rendered after June 4, 2002, but prior to becoming a member of this system.

(c) The election shall be made upon written application signed by the member and filed with the board pursuant to election procedures and during election periods established by the board. The purchase of the elective COLA shall be effective only when the member has paid contributions necessary to purchase the designated amount of service for which he or she shall receive the elective COLA. The amount of required contributions shall be determined by the board, subject to the following:

(1) The cost of purchasing service for elective COLA purposes shall be determined by the board of retirement such that no elective COLA liability shall be borne by the county and no diminution in the funding ratio of the system shall result.

(2) The cost charged to the member for purchasing the elective COLA service shall be based upon the assumption that the member retires at the age of 65 years.

(3) Members may pay for the elective COLA by lump-sum payment or monthly installments over a period to be determined by a resolution adopted by a majority vote of the board of retirement, or both, but in any event prior to the earlier of his or her death or the date that is 120 days after the effective date of his or her retirement.

(4) If a member fails to timely complete the purchase of his or her elective COLA, he or she shall receive an elective COLA calculated only with regard to that amount of service actually purchased.

(5) If a Retirement Plan E member dies prior to retirement, any contributions made toward the purchase of an elective COLA, and all interest credited thereto, shall be refunded to the deceased member's surviving spouse or, if there is no surviving spouse, to the deceased

member's surviving child or children under the age of 18 years, divided among those children in equal amounts, or, if there is no surviving spouse or surviving child or children under the age of 18 years, to the deceased member's estate.

(d) If a Retirement Plan E member elects and purchases an elective COLA, then, notwithstanding any other provision of this article, every Retirement Plan E allowance or postretirement death allowance payable on and after the operative date of this section, to or on account of that member who retires or dies or who has retired or died shall, as of April 1 of each year, be increased or decreased by an amount equal to that member's elective COLA as calculated by the board of retirement before April 1 of each year. No decrease in the cost of living shall reduce an allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance or this provision, whichever is later.

Notwithstanding any other provisions of this section, if a member retires before attaining the age of 65 years, his or her elective COLA shall be actuarially reduced to reflect that earlier retirement age unless, within 120 days after his or her retirement, he or she contributes by lump-sum the amount necessary to complete the purchase of his or her elective COLA as determined by the board. If, upon a member's retirement, the board of retirement determines that a member has paid more contributions than necessary to purchase his or her elective COLA in accordance with subdivision (b), the member shall receive a refund of those excess contributions and all interest credited thereto. Upon retirement or termination of employment, but before he or she begins receiving his or her elective COLA, a member may revoke his or her election to purchase an elective COLA and receive a refund of any contributions made toward the purchase of the elective COLA and all interest credited thereto.

(e) If a Retirement Plan E member or former member is totally disabled, begins receiving disability benefits, other than state-mandated benefits, under a disability plan provided by the employer on or after the operative date of this section, and, on or after that date, his or her employment terminates, then, for purposes of calculating the member's or former member's final compensation, his or her predisability compensation, as previously adjusted in accordance with this subdivision and paragraph (5) of subdivision (f), shall, as of April 1 of each year after his or her employment terminates and during a period for which he or she both remains totally disabled and earns "service" within the meaning of subdivision (g) of Section 31488, be increased or decreased by an amount equal to that member's or former member's predisability compensation adjustment as calculated by the board of retirement before April 1 of each year.

(f) As used in this section:

(1) "Automatic COLA" means, with respect to any member of Retirement Plan E, an amount equal to the allowance then being received (including any automatic or elective COLAs previously received), multiplied by a percentage (rounded to the nearest one-tenth of 1 percent) derived by taking the number of months of service the member earned on and after the operative date of this section, dividing by the member's total months of service, and multiplying by a percentage equal to the lesser of 2 percent or the percentage found by the board of retirement to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1 of each year as shown by the then current CPI, as adjusted for the amount applied from a prior year. For purposes of applying this formula, the amount of any annual cost-of-living increase under the CPI in excess of the 2 percent maximum shall be accumulated and applied in future years in which the annual cost-of-living increase under the CPI is less than the 2 percent maximum.

(2) "CPI" means the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated.

(3) "Elective COLA" means, with respect to any member of Retirement Plan E, an amount equal to the allowance then being received (including any automatic or elective COLAs

previously received), multiplied by a percentage (rounded to the nearest one-tenth of 1 percent) derived by taking the number of months of service the member purchased in accordance with subdivision (b), dividing by the member's total months of service, and multiplying by a percentage equal to the lesser of 2 percent or the percentage found by the board of retirement to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1 of each year as shown by the then current CPI, as adjusted for the amount applied from a prior year. For purposes of applying this formula, the amount of any annual cost-of-living increase under the CPI in excess of the 2 percent maximum shall be accumulated and applied in future years in which the annual cost-of-living increase under the CPI is less than the 2 percent maximum.

(4) "Predisability compensation" means a member's last 12 months of compensation earnable preceding the date his or her employment terminates while he or she is receiving disability benefits, other than state-mandated benefits, under a disability plan provided by the employer because he or she is totally disabled. The employer shall provide the board of retirement with the information necessary for a member's predisability compensation to be determined.

(5) "Predisability compensation adjustment" means, with respect to any member or former member of Retirement Plan E qualifying under subdivision (e), an amount equal to that member's or former member's predisability compensation as previously adjusted under this section, multiplied by a percentage equal to the lesser of 2 percent or the percentage found by the board of retirement to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1, of each year as shown by the then current CPI, as adjusted for the amount applied from a prior year. For the purpose of applying this formula, the amount of any annual cost-of-living increase under the CPI in excess of the 2 percent maximum shall be accumulated and applied in future years in which the annual cost-of-living increase under the CPI is less than the 2 percent maximum.

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

(Amended by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 12)

§31495.6. Use of current, forfeited, and vested membership periods in determining age of entry; applicability (Los Angeles)

A member may use current, forfeited, and vested membership periods earned under this chapter when meeting the reciprocity requirements for purposes of determining age of entry, as defined in Sections 31833 and 31833.1. This section shall not apply to members who are retired from this system.

(Added by Stats. 2010, Ch. 86 (AB 1902), Sec. 4)

Article 1.6

Alternative Plan for Counties of the 10th Class (San Mateo)

(Article 1.6 added by Stats. 1982, Ch. 1381, Sec. 1, Applicable as prescribed by Section 31496)

§31496. Designation as Retirement Plan 3; application of article; purpose; application of other laws (San Mateo)

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 10th

class, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

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

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

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

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

- (1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.
- (2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.
- (3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.
- (4) Article 12 (commencing with section 31780) of this chapter shall not be applicable.
- (5) Article 16.5 (commencing with Section 31870) of this chapter shall not be

applicable.

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

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

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

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31496.3. Definitions (San Mateo)

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

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

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

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

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

any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety membership.

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

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

Except as provided, a member may not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service may not include military service or public service other than service with the employer.

Notwithstanding any other provision of this chapter, a member who has elected or transferred to the plan created by this article and who terminates for any reason and is later reemployed shall receive Plan 3 credit for his or her service rendered prior to termination.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

(Amended by Stats. 1983, Ch. 190, Sec. 1, Effective July 11, 1983)

(Amended by Stats. 2003, Ch. 96 (A.B. 398), Sec. 2)

§31496.7. Contributions; none by general members; transferees; refunds; interest (San Mateo)

(a) There shall be no general members' contributions under the plan created by this article.

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

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31497. Credit for prior public service; absence from work or termination of employment; effect on continuity of service (San Mateo)

(a) Except as provided in Section 31498.3 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and shall not receive credit for that prior public service.

(b) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(c) For the purposes of subdivision (b) of Section 31497.3, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit which has been approved by the employer, shall not be considered an interruption of service. However, the period of time of unpaid leave shall not be considered as service in calculating the benefits otherwise provided under this article.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31497.3. Retirement; time of vesting; eligibility; application; benefits (San Mateo)

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

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

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

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

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

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

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

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

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

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

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

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

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

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31497.7.

(j) Notwithstanding subdivision (e) of Section 31497.3, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31497.7. Death benefits; election for lower pension to obtain different survivor allowance (San Mateo)

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

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

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the

retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

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

(Added by Stats. 1982, Ch. 1381, Sec. 1)

§31498. Employment subsequent to effective date of article; certification; automatic coverage (San Mateo)

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

(b) If the person does not elect to be covered by either Retirement Plan 2 or Retirement Plan 3 within 60 days of employment, the person shall automatically be covered by Retirement Plan 2 and no certification shall be required.

(Amended by Stats. 1992, Ch. 707, Sec. 4, Effective September 15, 1992)

§31498.3. Transfer to Plan 3 by general members; change of election upon reemployment not permitted (San Mateo)

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

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

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member shall receive credit for no more than 24 months of public service performed prior to December 31, 1969, including service with the employer, military service, and any other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) The transfer by the member is voluntary and shall be irrevocable, unless the board of supervisors, by resolution, authorizes Retirement Plan 3 members to transfer to Retirement Plan 2, under terms and conditions specified in the resolution. These terms may include, but are not limited to, an eligibility provision based on the number of years in county service, a provision for crediting service in Retirement Plan 2 only for that service rendered after adoption of the resolution, or an eligibility provision allowing members to transfer to Retirement Plan 2 all county service rendered under Retirement Plan 3 provided the member deposits into the retirement fund within a specified time an amount equal to the contributions he or she would have made during that time, had he or she been a member of Retirement Plan 2, together with regular interest on that amount. The resolution may establish different

conditions for different job classifications or groups, and for represented bargaining units, conditions mutually agreed upon by the employer and the employee representative. The board of supervisors may also establish any other conditions it deems necessary or desirable.

(e) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon that reemployment, unless a resolution, enacted by the board of supervisors subsequent to the member's election to transfer to the new plan, so provides.

(Amended by Stats. 1991, Ch. 344, Sec. 2, Effective August 6, 1991. Applicable as of March 1, 1991, pursuant to Ch. 344, Sec. 3)

§31498.7. Employer contribution (San Mateo)

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

(Added by Stats. 1982, Ch. 1381, Sec. 1)

Article 1.7

Alternative Plan for Counties of the 25th Class (Merced)

(Article 1.7 added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499. Name of plan; application of article; purpose; construction with other laws; amendments of article (Merced)

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 25th class described by Section 28046, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

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

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

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

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

- (1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.
- (2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.
- (3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.
- (4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.
- (5) Article 16.5 (commencing with Section 31870) of this chapter shall not be

applicable.

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

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

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

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.1. Definitions (Merced)

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

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

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

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

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

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except as employee eligible for safety membership.

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

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

Except as otherwise herein provided, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.2. General members' contributions; transfers to plan; refund of contributions and interest (Merced)

(a)(1) Except as otherwise provided in Section 31499.3, there shall be no general members' contributions under the plan created by this article.

(2) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of

receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

(b)(1) Except as provided in Sections 31499.3 and 31499.7 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and may not receive credit for that prior public service.

(2) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, may not be considered as breaking the continuity of service.

(3) For the purposes of subdivision (b) of Section 31499.4, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit which has been approved by the employer, may not be considered an interruption of service. However, the period of time of unpaid leave may not be considered as service in calculating the benefits otherwise provided under this article.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

(Amended by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 13)

§31499.3. Credit for public service prior to becoming member; interruption of service (Merced)

(a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit in this retirement system for service with the county that was rendered prior to his or her current membership in the system and for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) Notwithstanding any other provision of this chapter, service credit received by a member pursuant to this section may not be counted to meet the minimum qualifications for service or disability retirement, additional cost-of-living benefits, health care benefits, or any other benefits based on service credit.

(c) Any member who elects to make contributions and receive service credit pursuant to this section shall contribute to the retirement fund, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that is equal to the present value of the additional liability incurred by the system in crediting the prior service, based upon actuarial assumptions in effect for the retirement system at the time the election is made.

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

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

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

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983. Repealed 2004)

(Added Stats. 2004, Ch. 533 (A.B. 2234), Sec. 15. Former section repealed in 2004. Ch. 533, Sec. 4)

§31499.4. Retirement of member; vested membership; computation of allowance (Merced)

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

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

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

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

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

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

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

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

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

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

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

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

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

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31499.8.

(j) Notwithstanding subdivision (e) of Section 31499.4, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.5. Death of retired member; survivors' benefits (Merced)

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

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

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

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

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

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.6. Election of employee to become member (Merced)

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

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.7. Transfers to plan (Merced)

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

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

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member shall receive credit for no more than 24 months of public service performed prior to December 31, 1969, including service with the employer, military service, and any other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

(d) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon such reemployment.

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.8. Employer contribution (Merced)

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

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

§31499.9. Severability (Merced)

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

(Added by Stats. 1983, Ch. 558, Sec. 4, Effective July 28, 1983)

Article 1.8

Alternative Optional, Integrated, Noncontributory Plan for Counties of the 20th Class (Stanislaus)

(Article 1.8 added by Stats. 1985, Ch. 175, Sec. 1, Applicable as prescribed by Section 31499.10)

§31499.10. Retirement Plan 3; applicability of article, purpose; calculation of pension

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 20th class as described by Section 28041, if the board of supervisors adopts, by majority vote, a resolution providing that the article shall be applicable.

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

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

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

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

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

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

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

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

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

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

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

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

(Added by Stats, 1985, Ch. 175, Sec.1)

§31499.11. Definitions (Stanislaus)

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

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

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

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the

Social Security Act.

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

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety member.

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

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

Except as otherwise provided in this article, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.12. No general members' contributions; refunds for transferred members (Stanislaus)

(a)(1) Except as provided for in Section 31499.13, there shall be no general members' contributions under the plan created by this article.

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

(b)(1) Except as provided in Sections 31499.13 and 31499.17 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for the public service time, and may not receive credit for that prior public service.

(2) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, may not be considered as breaking the continuity of service.

(3) For the purposes of subdivision (b) of Section 31499.14, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee received any benefit that has been approved by the employer, may not be considered an interruption of service. However, the period of time of unpaid leave may not be considered as service in calculating the benefits otherwise provided under this article.

(Added by Stats. 1985, Ch. 175, Sec. 1)

(Amended by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 16)

§31499.13. Credit for prior public service; continuity of service; interruption of service (Stanislaus)

(a) An active member governed by the provisions of this article may elect, by written notice filed with the board, to make contributions and receive credit in this retirement system for service with the county that was rendered prior to his or her current membership in the system and for which he or she would not otherwise be entitled to receive credit pursuant to this article.

(b) Notwithstanding any other provision of this chapter, service credit received by a member pursuant to this section may not be counted to meet the minimum qualifications for service or disability retirement, additional cost-of-living benefits, health care benefits, or any other benefits based on service credit.

(c) Any member who elects to make contributions and receive service credit pursuant to this section shall contribute to the retirement fund, prior to the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.7, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that is equal to the present value of the additional liability incurred by the system in crediting the prior service, based upon actuarial assumptions in effect for the retirement system at the time the election is made.

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

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

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

(Added by Stats, 1985, Ch. 175, Sec. 1, Repealed 2004)

(Added by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 18. Former section repealed in 2004. Ch. 533, Sec. 4)

§31499.14. Retiring of member or former member; vesting; application; normal or early retirement pensions; computation; proof of age and eligibility (Stanislaus)

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

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

(c) Any member who is not vested, whose employment terminated, and who is then reemployed shall not receive credit for his or her previous service credited under Plan 3, provided, that the service was rendered in Plan 3.

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

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

(f) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final

compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 20 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

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

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

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

The early retirement adjustment factor set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

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

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

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

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

(j) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31499.15.

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

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.15. Survivor allowance (Stanislaus)

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

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

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) No designation pursuant to subdivision (b) shall, in the opinion of the board and the actuary, place any additional actuarial cost burden upon the retirement system.

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.16. Certification of election to be covered by retirement plan (Stanislaus)

Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the

date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.17. Transfer to retirement plan created by this article; election and application; benefits (Stanislaus)

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

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

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. All transferring members whose contributions for public service have been refunded to them shall not receive credit for that service.

(d) Any member who selects Retirement Plan 3 upon reentering into county service and who has not received credit as a Plan 3 member for previous county service, may elect to repurchase his or her previous service by redepositing his or her withdrawn contributions, plus interest, from date of termination, and shall then receive credit for that service under the plan status at the time of original employment.

(e) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon that reemployment, unless a resolution, enacted by the board of supervisors subsequent to the member's election to transfer to the new plan, so provides.

(f) A plan transfer by a member is voluntary and shall be irrevocable, unless the board of supervisors, by resolution, authorizes Retirement Plan 3 members to transfer to a retirement plan authorized under Article 8 (commencing with Section 31670), under the terms and conditions specified in the resolution. The terms may include, but are not limited to, (1) an eligibility provision based on the number of years in county service, or (2) a provision for crediting service in the plan which (A) the member transfers to only for that service rendered after adoption of the resolution or (B) an eligibility provision that, for the purposes of Article 10 (commencing with Section 31720), considers years in county service from the date the member transfers to a new plan unless the prior county service credit is restored, or both. The resolution may establish different service credit conditions for various job classifications or groups, or for various represented bargaining units, different conditions agreed upon by the employer and the employee representative, or both. The board of supervisors may also establish other conditions it deems necessary or desirable.

(Added by Stats. 1985, Ch. 175, Sec. 1)

(Amended by Stats. 2001, Ch. 784 (A.B. 867), Sec. 1.5, Effective October 13, 2001)

§31499.18. Employer contribution required to finance plan; establishment (Stanislaus)

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

(Added by Stats. 1985, Ch. 175, Sec. 1)

§31499.19. Severability (Stanislaus)

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

(Added by Stats. 1985, Ch. 175, Sec. 1)

Article 2

Establishment of System

(Article 2 added by Stats. 1947, Ch. 424, Sec. 1)

§31500. Procedure

A retirement system is established in any county for eligible officers and employees by the adoption of an ordinance, accepting this chapter, by:

(a) A majority vote of the electors voting on the proposition at a special or general election; or

(b) A Four-fifths vote of the board of supervisors.

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

§31501. Operative date

This chapter becomes operative in any county on either January 1st or July 1st following the adoption of the ordinance, as specified in the ordinance, but not sooner than 60 days after its adoption.

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

§31502. Adoption by institution operated by two or more counties or by district; effect; contributions

This chapter may be made effective by a resolution adopted by a majority of the governing board or committee of any institution operated by two or more counties, or by a majority of the governing board or committee of any district as defined in subdivision (c) of Section 31468, if one of the counties involved in the operation of the institution has adopted its provisions, or, in the case of a district as defined in subdivision (c) of Section 31468, if one of the counties comprising the organization or association has adopted its provisions. Upon the adoption of the resolution the employees of the institution shall become members of the retirement system of the county designated by the governing board or committee of the institution, and all contributions made by the employees and by the institution shall be paid into the county retirement system of the county selected. The governing board or committee shall cause to be paid to the county operating the retirement system, the institution's proportionate share of the cost of operation of the system.

(Amended by Stats. 1949, Ch. 1338, Sec. 4)

§31503. Previous systems superseded

A retirement system established pursuant to this chapter shall supersede any previously established county pension system.

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

(Amended by Stats. 1953, Ch. 789, Sec. 1)

§31505. Sufficient assets to remain with superseded system to pay persons retired

The assets and records of a superseded system shall become the assets and records of this retirement system, but there shall be left to the superseded system not established pursuant to either Chapter 4 or Chapter 5, sufficient assets, according to tables adopted by the board of supervisors, to pay all retirement payments or annuities to persons who have been retired under the superseded retirement system.

(Amended by Stats. 1951, Ch. 1098, Sec. 13)

§31506. Retired members of superseded systems to be paid

All previously retired members of the superseded system shall be paid for their respective lives the full amount of the retirement payments or annuities to which they are entitled.

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

§31507. Appropriation to meet obligations of superseded systems

The retirement board created by this chapter shall determine the amount and kind of assets necessary to meet the requirements of Section 31506, and if the amount so determined proves insufficient, the county shall annually appropriate the sum necessary to fulfill the requirements.

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

§31508. Administration of assets; transfer of superseded system's assets

The assets shall be administered solely by the board subject to the provisions of this chapter as to the custody, investment, and disbursement of the retirement fund. If there are assets of the superseded system remaining after the termination of all liabilities of the superseded system, the remaining assets shall be transferred to and become part of the retirement fund.

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

§31509. Withdrawal of special contributions to superseded system

A member who has made special contributions to a superseded system shall have the option of withdrawing such special contributions together with interest thereon, following the transfer of contributions to this system, or of permitting the contributions to remain as additional contributions to this system. Any member electing to make such withdrawal shall do so by written notice addressed to the board within 90 days after the effective date of this system.

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

Article 2.1

Additional Plan for Counties of the First Class (Los Angeles)

(Article 2.1 added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989, Applicable as prescribed by Section 31510)

§31510. Los Angeles County; application of article; purpose; limitations on benefits; priority of application (Los Angeles)

(a) This article shall be applicable to all members of the retirement system of any county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(b) The purpose of this article is to provide a defined contribution plan which, in conjunction with retirement benefit provisions otherwise contained in this chapter, will provide approximately the same level of retirement benefits to persons who first become members on or after January 1, 1990, and are subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986, as they would receive under the other retirement benefit provisions in the absence of those limitations, while not affecting the rate of either member or employer contributions to the retirement system. In addition, it is intended that subdivisions (c) and (d)

constitute an election under Section 414(b)(10)(C) of the Internal Revenue Code of 1986 with respect to all retirement plans within the retirement system.

(c) Notwithstanding any other provision of this part, the benefits payable to any person who first becomes a member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986, as adjusted pursuant to Section 414(d)(1)(A) and (B).

(d) Notwithstanding any other law, the benefits payable to any person who first became a member prior to January 1, 1990, shall not be subject to the limitations set forth in Section 415(b) of the Internal Revenue Code of 1986, except to the extent required by subsection (b)(10)(A) of Section 415.

(e) The election described in subdivision (b) shall apply to all employers whose employees are members of the retirement system of the county on December 31, 1989.

(f) The retirement benefits of all persons who first become members of the retirement system on or after January 1, 1990, and participate in Safety Plan B or General Plan D shall be governed by this chapter applicable to those plans and by this article.

(g) Subdivisions (c) and (d) shall not become operative until the board of supervisors has taken the actions required by subdivision (a) of Section 31510.2.

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

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

§31510.1. Definitions (Los Angeles)

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

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

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

(c) "General Plan F" means the defined contribution plan established in accordance with this article for the benefit of certain members of General Plan D.

(d) "Plan F" means General Plan F and Safety Plan F, collectively.

(e) "Prior plan" means Safety Plan B or General Plan D, as the context requires.

(f) "Safety Plan F" means the defined contribution plan established in accordance with this article for the benefit of certain members in Safety Plan B.

(Added by Stats, 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

§31510.2. General and Safety Plan F; establishment; participants; credit of prior contributions; benefits; compliance with federal tax law; administration; annuity defined; termination of plan (Los Angeles)

(a) The board of supervisors of any county subject to this article shall establish two defined contribution retirement plans authorized by Section 401 of the Internal Revenue Code of 1986. The terms of the plans shall be mutually agreed to by the employer and employee representatives of affected employees prior to adoption or amendment by the board of supervisors. The plans shall be known as General Plan F and Safety Plan F and are referred to collectively as plan F.

(b) Any general member described in subdivision (f) of Section 31510 shall participate in General Plan F, and any safety member described in subdivision (f) of Section 31510 shall participate in Safety Plan F, after commencement of his or her participation in the prior plan.

(c) The board, upon the advice of the actuary, shall determine the portion of the member contributions otherwise required under the prior plan that shall be credited to plan F

in lieu of being credited to the other plan. In doing so, the board shall provide for the level of contributions to plan F that is the minimum amount sufficient to satisfy the purposes set forth in subdivision (b) of Section 31510.

(d) The right of the member to benefits derived from member contributions vests under plan F upon the commencement of participation in plan F.

(e) If a member or beneficiary becomes entitled to receive a benefit in the form of an annuity under the terms of the prior plan, the member's account in plan F shall be converted to the same form of annuity as is payable to the member or beneficiary from the prior plan. The amount of the annuity payable under the prior plan, calculated prior to the application of this article (including the limitations set forth in Section 415 of the Internal Revenue Code of 1986), shall be reduced by the amount of the annuity generated under plan F as described in the preceding sentence. The amount payable from plan F shall be paid at the same time and in the same manner as the annuity payable from the prior plan and may be provided through an annuity contract purchased from an insurance company, at the discretion of the board. Notwithstanding the foregoing, if the member's account in plan F does not exceed three thousand five hundred dollars (\$3,500), it shall be paid to the member or beneficiary as a lump-sum payment, in lieu of the benefit otherwise payable under plan F.

(f) If a member or beneficiary becomes entitled to receive the member's accumulated contributions and interest from the prior plan, the member or beneficiary shall receive the member's account balance from plan F consisting of the member's accumulated contributions and actual earnings at the same time and in the same manner.

(g) In applying the limitations set forth in Section 415 of the Internal Revenue Code of 1986, benefits or annual additions in qualified retirement plans maintained by an employer separate from the retirement system shall be reduced first. Any additional reduction shall be made to the benefits from plans within the retirement system other than plan F, and then lastly to the annual addition to plan F.

(h) Plan F shall be administered in accordance with subsection (a) of Section 401 of the Internal Revenue Code of 1986 and the Treasury Regulations issued thereunder. The plan shall state that it is intended to be a profit-sharing plan wherein contributions are determined without regard to current or accumulated profits.

(i) For the purpose of this article, the term "annuity" means the combined benefit provided by an annuity, as defined in Section 31457, and the pension, as defined in Section 31471.

(j) To the extent any county subject to this article terminates General Plan F or Safety Plan F, or both of them, with respect to any group of members and in accordance with their terms and adopts a replacement benefits program under Section 31899.4 for those members in lieu of that plan or plans, this section shall be inoperative in that county with respect to those members. In any event, the election made pursuant to subdivision (b) of Section 31510, the provisions of subdivisions (c), (d), (e), (f), and (h) of Section 31510, and the provisions of Section 31510.3 shall remain operative in that county.

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 2)

§31510.3. Disability benefits (Los Angeles)

It is intended that disability benefits payable from the retirement system pursuant to Article 10 (commencing with Section 31720), in the event of the member's termination of employment for disability, are compensation for personal injury or sickness, and therefore would not be subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986. If the Internal Revenue Service rules that the disability benefits are subject to those

limitations, any employer which is subject to this article shall provide an alternate disability benefit equal to the decrease in the disability benefit caused by application of those limitations, through a long-term disability plan which shall be separate from the retirement system. The terms of that long-term disability plan shall be mutually agreed to by the employer and employee representatives and adopted by the board of supervisors.

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

§31510.4. Contributions; maintenance to not affect; interest credit (Los Angeles)

It is intended that the maintenance of plan F not affect the rate of either member or employer contributions to the retirement system. The board may set a rate of regular interest credited to contributions to the prior plan made with respect to members participating in plan F that is different than the rate of regular interest credited to contributions made with respect to members not participating in plan F, if necessary to effectuate that intent.

(Added by Stats. 1989, Ch. 1300, Sec. 1, Effective October 1, 1989)

Article 2.6

Alternative Plan for Counties of the 13th Class (Ventura)

(Article 2.6 added by Stats. 1985, Ch. 1480, Sec. 1)

§31511. Creation and name of plan; purpose; applicability; conflicting laws (Ventura)

(a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 13th class as described by Sections 28020 and 28034, if the board of supervisors executes a memorandum of understanding agreement with employee representatives and adopts, by a majority vote, a resolution providing that the article shall be applicable.

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

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

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

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

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

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

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

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

(i) Unless specifically otherwise provided therein, no amendment to this article enacted

subsequent to the effective date of this article shall apply to any county or to the employees of any county unless and until mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.1. Definitions; establishment of defined contribution retirement plan (Ventura)

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

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

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

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

(d) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety membership.

(e) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the normal retirement age.

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

Except as otherwise herein provided, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

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

The board of supervisors of any county subject to this article shall establish a defined contribution retirement plan authorized by Section 401 of the United States Code.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.2. General members' contributions; refund to members electing transfer to plan (Ventura)

(a) There shall be no general members' contributions under the plan created by this article.

(b) No refund shall be made to any member who elects to transfer to the retirement plan created by this article of the member's accumulated contributions. A member who elects to transfer to the retirement plan established pursuant to this article shall receive: service credit toward vesting under the other retirement plan; a pension from the other retirement plan based upon his or her credited service on the day prior to the operative date of the transfer to the retirement plan established pursuant to this article; and a pension from the retirement plan established pursuant to this article based upon service credited on and after the operative date of the transfer to the retirement plan established pursuant to this article.

(Added by Stats, 1985, Ch. 1480, Sec. 1)

§31511.3. Interruptions in service (Ventura)

(a) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by the long-term disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(b) For the purposes of subdivision (b) of Section 31511.4, an unpaid leave of absence which has been approved by the employer, shall not be considered an interruption of service. However, the period of time of unpaid leave shall not be considered as service in calculating the retirement benefits otherwise provided under this article.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.4. Vested membership; age and service at retirement; early retirement adjustments

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

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

(c) Any vested member who has attained normal retirement age may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date. For purposes of this article, normal retirement date means the first day of the month coincident with or next following the member’s normal retirement age. For purpose of this article, normal retirement age means:

For Persons Born	Normal Retirement Age
1937 or before	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943-1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 and later	67

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

(e) The normal retirement pension for a member who has attained normal retirement age shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to: 2.333 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, but not to exceed 30 years; reduced by 2.166 percent of the estimated primary insurance amount, if any, multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, but not to exceed 30 years, multiplied by a fraction, the numerator of which is the number of years of service with the employer subject to coverage under the federal system, but not to exceed 30 years, and the denominator of which is 30.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent

of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth, based on the number of years and months by which the member's early retirement date precedes the member's normal retirement date, in the following tables:

Early Retirement Adjustment Factors

Years	Months				
	0	1	2	3	4
0	1.0000	0.9944	0.9889	0.9833	0.9778
1	0.9333	0.9278	0.9222	0.9167	0.9111
2	0.8667	0.8611	0.8556	0.8500	0.8444
3	0.8000	0.7944	0.7889	0.7833	0.7778
4	0.7333	0.7278	0.7222	0.7167	0.7111
5	0.6667	0.6639	0.6611	0.6583	0.6556
6	0.6333	0.6306	0.6278	0.6250	0.6222
7	0.6000	0.5972	0.5944	0.5917	0.5889
8	0.5667	0.5639	0.5611	0.5583	0.5556
9	0.5333	0.5306	0.5278	0.5250	0.5222
10	0.5000	0.4972	0.4944	0.4917	0.4889
11	0.4667	0.4639	0.4611	0.4583	0.4556
12	0.4333	0.4306	0.4278	0.4250	0.4222

Early Retirement Adjustment Factors

Years	Months			
	5	6	7	8
0	0.9722	0.9667	0.9611	0.9556
1	0.9056	0.9000	0.8944	0.8889
2	0.8389	0.8333	0.8278	0.8222
3	0.7722	0.7667	0.7611	0.7556
4	0.7056	0.7000	0.6944	0.6889
5	0.6528	0.6500	0.6472	0.6444
6	0.6194	0.6167	0.6139	0.6111
7	0.5861	0.5833	0.5806	0.5778
8	0.5528	0.5500	0.5472	0.5444
9	0.5194	0.5167	0.5139	0.5111
10	0.4861	0.4833	0.4806	0.4778
11	0.4528	0.4500	0.4472	0.4444
12	0.4194	0.4167	0.4139	0.4111

Early Retirement Adjustment Factors

Years	Months			
	9	10	11	12
0	0.9500	0.9444	0.9389	0.9333
1	0.8833	0.8778	0.8722	0.8667
2	0.8167	0.8111	0.8056	0.8000
3	0.7500	0.7444	0.7389	0.7333
4	0.6833	0.6778	0.6722	0.6667

Early Retirement Adjustment Factors

Years	Months			
	9	10	11	12
5	0.6417	0.6389	0.6361	0.6333
6	0.6083	0.6056	0.6028	0.6000
7	0.5750	0.5722	0.5694	0.5667
8	0.5417	0.5389	0.5361	0.5333
9	0.5083	0.5056	0.5028	0.5000
10	0.4750	0.4722	0.4694	0.4667
11	0.4417	0.4389	0.4361	0.4333
12	0.4083	0.4056	0.4028	0.4000

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

(1) An employee's earnings prior to the first day of service with the employer shall be assumed to have been zero, and

(2) An employee's earnings during the period of service shall include only those earnings paid by the employer, and

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

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

(i) Notwithstanding subdivision (e), any retired member receiving a normal retirement pension may present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work or any reductions on account of early retirement. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

(j) All part-time and intermittent employees of a county which elects to be subject to this article shall not be eligible to participate in the retirement plans provided by this article.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.5. Surviving spouse benefits (Ventura)

Notwithstanding any other provision of this chapter to the contrary, no surviving spouse benefit shall be paid to a surviving spouse of a member who at the time of death had not met the minimum age and service credit requirements for service retirement.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.6. Transfer to plan; time for election (Ventura)

General members may, within 180 days of the operative date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. Furthermore, any general member who does not elect to transfer during this 180-day period, may elect to transfer within the 30 days prior to any annual anniversary of the operative date of this article. Such a transfer is voluntary and shall be irrevocable.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.7. Employer contribution rate; actuarial establishment (Ventura)

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

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.8. Cost-of-living adjustments (Ventura)

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member of the plan created by this article who retires at or beyond normal retirement age or dies shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All urban Consumers for the Los Angeles-Anaheim-Long Beach area, but such changes shall not exceed 5 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 5 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance. No adjustment shall be made in the retirement allowance of a member who retires prior to attaining normal retirement age until the member attains normal retirement age.

(Added by Stats. 1985, Ch. 1480. Sec. 1)

§31511.9. Long-term disability plan (Ventura)

(a) An employer which is subject to this article shall provide disability benefits for its employees through a long-term disability plan which shall be separate from and administered separately from the retirement plans authorized by this article and all other retirement plans.

(b) The long-term disability plan shall consist of a separate trust which shall be funded utilizing a level cost method and employer contributions. No employee shall be required to make any employee contribution to the long-term disability plan.

(c) The board of supervisors shall contract for the resolution of the issue of disability. The board of supervisors shall establish an appeals board to which a member who is aggrieved by a decision of the administrator may appeal.

(d) Any member permanently incapacitated for the performance of duty, regardless of age or years of service, shall receive disability benefits as follows: (1) for not to exceed two years; (2) for any time after the expiration of the two-year period specified in subdivision (a)

if, and only if the member is unable to perform the duties of any occupation for which the member is qualified by reason of training or experience.

(e) The disability benefit shall be 50 percent of the final compensation of the member reduced by any Social Security benefits, workers' compensation benefits, and earnings from any employment other than employment which is part of a rehabilitation program.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.10. Plan manager; education of employees regarding benefits (Ventura)

(a) The board of retirement shall establish a position whose qualifications shall include experience in administration and communication of defined benefit plans and defined contribution plans and whose duties shall include management of the plan or plans adopted pursuant to this article and reporting to the county treasurer and the director of personnel.

(b) The board of retirement shall establish and implement a comprehensive communication program to educate employees regarding the benefits available under this article and Social Security.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

§31511.11. Internal Revenue Code Section 401 plan; establishment (Ventura)

(a) The board of supervisors of any county subject to this article shall establish a defined contribution retirement plan authorized by Section 401 of the Internal Revenue code of 1954 or a similar plan authorized by the Internal Revenue Code of 1954.

(b) Any full-time employee of the county who is hired by the county on or after the operative date of this article in that county and has completed 6 months of credited full-time service with the county or any member who elects to transfer to the retirement plan created by this article shall participate in the plan.

(c) The county shall partially or fully match the contributions of the employees on the basis mutually agreed to by the board of supervisors and the employee representatives.

(d) The right of the employee to benefits derived from employee contributions vests upon the commencement of the participation by the employee in the plan.

(e) The right of the employee to benefits derived from matching employer contributions vests 100 percent after five years of full-time service with the county.

(f) Upon termination of the employment of an employee whose benefits derived from employer contributions are not vested, benefits derived from the contributions of the employee shall be refunded to the employee and the matching contributions of the employer shall be credited to reduce future employer contributions or to pay expenses of the plan.

(g) The defined contribution plan shall accept rollover contributions from other plans to the extent authorized by federal law.

(h) The plan shall be administered in accordance with subdivision (k) of Section 401 of the United States Code.

(Added by Stats. 1985, Ch. 1480, Sec. 1)

Article 2.7

General Limitations

(Article 2.7 added by Stats. 1995, Ch. 558 (S.B. 226), Sec. 2)

§31515. County Employees Retirement Law of 1937; legislative intent; cite

It is the intent of the Legislature to specifically include in the County Employees

Retirement Law of 1937 provisions of law that limit public retirement benefits, other than health benefits, for the members of the legislative bodies of counties and districts and provisions respecting the impact of salary and benefit increases upon the funding status of county retirement systems.

This chapter shall be known and may be cited as the Responsibility in Pensions Act of 1995.

(Added by Stats. 1995, Ch. 558 (S.B. 226), Sec. 2)

§31515.5. Salary and benefit increases; agenda item at public meeting of board of supervisors; notice; estimate of actuarial impact; construction

The board of supervisors, in compliance with Section 23026, shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and nonrepresented employees. Notice of any salary or benefit increase shall be included on the agenda for the meeting as an item of business in compliance with the requirements of Section 54954.2. Notice shall occur prior to the adoption of the salary or benefit increase, and shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees' retirement system.

The board of retirement, or board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized, consistent with its fiduciary duties, to have an enrolled actuary prepare an estimate of the actuarial impact of the salary or benefit increase. The actuarial data shall be reported to the board of supervisors.

Nothing in this section shall be construed to limit or lessen the requirement imposed by Section 7507 that the costs associated with increases in benefits be determined by an enrolled actuary and publicly disclosed two weeks prior to an adoption of the increase in benefits.

(Added by Stats. 1995, Ch. 558 (S.B. 226), Sec. 2)

§31516. Enrolled actuary; statement of actuarial impact; release at public meeting

The board of supervisors, in compliance with Section 7507, shall secure the services of an enrolled actuary to provide a statement of the actuarial impact upon future annual costs before authorizing increases in benefits. An "enrolled actuary" means an actuary enrolled under Sections 1241 and 1242 of Title 29 of the United States Code and "future annual costs" shall include, but not be limited to, annual dollar increases or the total dollar increases involved when available.

The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the adoption of any increases in benefits.

(Added by Stats. 1995, Ch. 558 (S.B. 226), Sec. 2)

§31517. Member of legislative body of county or district; limitations on benefits; application of section

(a) Notwithstanding any other provision of this chapter, as provided in Section 53060.1, the benefits of any member of a legislative body of any county or district shall be no greater than that received by nonsafety employees of that public agency. In the case of agencies with different benefit structures, the benefits of members of the legislative body shall not be greater than the most generous schedule of benefits being received by any category of nonsafety employees.

(b) Notwithstanding any other provision of this chapter, members of the legislative body of a county or district shall not be eligible to accrue multiple benefits greater than the most

generous schedule of benefits being received by any category of nonsafety employees from two or more public agencies for concurrent service except in the case of a member who serves as a regular full-time employee in a separate public agency.

(c) This section shall be applicable to any member of a legislative body whose first service commences on and after January 1, 1995.

(Added by Stats. 1995, Ch. 558 (S.B. 226), Sec. 2)

Article 3

Retirement Board

(Article 3 added by Stats. 1947, Ch. 424, Sec. 1)

§31520. Membership; qualifications; terms

Except as otherwise delegated to the board of investment and except for the statutory duties of the county treasurer, the management of the retirement system is vested in the board of retirement, consisting of five members, one of whom shall be the county treasurer. The second and third members of the board shall be active members of the association elected by it within 30 days after the retirement system becomes operative in a manner determined by the board of supervisors. The fourth and fifth members shall be qualified electors of the county who are not connected with county government in any capacity, except one may be a supervisor and one may be a retired member, and shall be chosen by the board of supervisors. The first persons chosen as the second and fourth members shall serve for two years from the date the system becomes operative and the third and fifth members shall serve for a term of three years from that date. Thereafter the terms of office of the four elected members are three years.

As used in this section "active member" means a member in the active service of a county, district, or superior court and a "retired member" means a member, including a member under former Section 31555, retired for service or disability.

(Amended by Stats. 1980, Ch. 448, Sec. 1)

(Amended by Stats. 2002, Ch. 784 (SB 1316), Sec. 188)

§31520.1. Membership in certain counties; qualifications; term; alternate seventh member

(a) In any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662.2), the board of retirement shall consist of nine members and one alternate, one of whom shall be the county treasurer. The second and third members of the board shall be members of the association, other than safety members, elected by those members within 30 days after the retirement system becomes operative in a manner determined by the board of supervisors. The fourth, fifth, sixth, and ninth members shall be qualified electors of the county who are not connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the board of supervisors. A supervisor appointed as a member of the retirement board may not serve beyond his or her term of office as supervisor. The seventh member shall be a safety member of the association elected by the safety members. The eighth member shall be a retired member elected by the retired members of the association in a manner to be determined by the board of supervisors. The alternate member shall be that candidate, if any, for the seventh member from the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4, which is not represented by a board member who received the highest number of votes of all candidates in that group, and shall be referred to as the alternate seventh member. If there is no eligible candidate there may not be an alternate seventh member. The first person chosen as the second and fourth members shall serve for a term of two years beginning with the date the system becomes operative, the third and fifth members shall serve for a term of three years beginning with that date, and the sixth, seventh and alternate seventh members shall serve for a term of two years beginning on the date on which a retirement system established by this chapter becomes operative. The eighth and ninth members shall take office as soon as practicable for an initial term to expire concurrent with the expiration of the longest remaining term of an elected member. Thereafter, the terms of office of the elected, appointed, and alternate seventh members are three years, except as provided in Section 31523.

(b) The alternate seventh member provided for by this section shall vote as a member of the board only if the second, third, seventh, or eighth member is absent from a board meeting for any cause, or if there is a vacancy with respect to the second, third, seventh, or eighth member, the alternate seventh member shall fill the vacancy until a successor qualifies. The alternate seventh member shall sit on the board in place of the seventh member if a member of the same service is before the board for determination of his or her retirement.

(c) The alternate seventh member shall be entitled to both of the following:

(1) The alternate seventh member shall have the same rights, privileges, responsibilities, and access to closed sessions as the second, third, seventh, and eighth member.

(2) The alternate seventh member may hold positions on committees of the board independent of the second, third, seventh, or eighth member and may participate in the deliberations of the board or any of its committees to which the alternate seventh member has been appointed whether or not the second, third, seventh, or eighth member is present.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 1)

§31520.11. County of Contra Costa; alternative terms of office (Contra Costa)

As an alternative to the terms of office specified in Section 31520.1, the County of Contra Costa may, if the board of supervisors adopts a resolution, have terms of office which expire as follows:

Seat number 1, the treasurer, who serves on the board of retirement ex officio, and whose term of office on the retirement board expires with his or her term of office as treasurer.

Seats 2, 4, and 8 expire June 30, 1992, and every three years thereafter.

Seats 3, 5, and 9 expire June 30, 1993, and every three years thereafter.

Seats 6, 7, and alternate expire June 30, 1994, and every three years thereafter.

(Added by Stats. 1991, Ch. 1226, Sec. 7)

§31520.12. Appointment of alternate for fourth, fifth, sixth, and ninth members in counties subject to Articles 6.8 and 7.5 in county of ninth class.

(a) Notwithstanding Section 31520.1, and subject to the limitations of subdivision (c), in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of supervisors may, by resolution adopted by majority vote, appoint an alternate member for the fourth, fifth, sixth, and ninth members. The term of office of the alternate member shall run concurrently with the term of office of the ninth member. The alternate member shall vote as a member of the board only in the event the fourth, fifth, sixth, or ninth member is absent from a board meeting for any cause. If there is a vacancy with respect to the fourth, fifth, sixth, or ninth member, the alternate member shall fill that vacancy until a successor qualifies.

(b) The alternate member for the fourth, fifth, sixth, or ninth member shall be entitled to the same compensation as the fourth, fifth, sixth, or ninth member for attending a meeting, pursuant to Section 31521, whether or not the fourth, fifth, sixth, or ninth member attends the meeting.

(c) If the board of supervisors appoints a supervisor as the fourth, fifth, sixth, or ninth member, an alternate member appointed pursuant to subdivision (a) may not serve as an alternate for that supervisor member unless service by an alternate member for an appointed supervisor member is approved by the majority of the electors in the county.

(d) This section shall apply only to a county of the ninth class, as defined in Sections 28020 and 28030.

(Added by Stats. 2005, Ch. 64 (A.B. 719), Sec. 1)

§31520.2. Board of investments in certain counties

(a) In any county in which the assets of the retirement system exceed eight hundred million dollars (\$800,000,000), the board of supervisors may, by resolution, establish a board of investments. The board shall consist of nine members, one of whom shall be the county treasurer. The second and third members shall be general members of the association elected by the general membership of the association for a three-year term. The fourth member shall be a safety member elected by the safety membership of the association for a three-year term. The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term. The fifth, sixth, seventh, and ninth members shall be qualified electors of the county who are not connected with county government in any capacity, and shall be appointed by the board of supervisors. They shall also have had significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or endowment funds. The first person chosen as a fifth, sixth, or seventh member shall serve for a three-year term, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. The first person appointed as the ninth member shall serve a one-year term. Thereafter, all terms of all appointed members shall be three years.

(b) The board of investments shall be responsible for all investments of the retirement system.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 2)

§31520.3. Appointment and election of alternate retired member; term (Santa Barbara)

(a) Notwithstanding Section 31520.1, the board of retirement of a county of the 16th class, as defined by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth member is elected.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

(c) Except as provided in subdivision (b), the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member. The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.

(d) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Section 31521, whether or not the eighth member is in attendance at those meetings.

(e) (1) In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the retired member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in

Section 31520.1.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 3)

§31520.4. Workers' compensation benefits; course and scope of employment; eligibility

In any county with a board of retirement composed of nine members pursuant to Section 31520.1, if the second, third, seventh, or alternate seventh member of the board is injured or killed while performing his or her duties as a member of the board, that member shall be deemed to have been acting in the course and scope of his or her duties as an employee of the county or district employing the member, for the limited purpose of determining eligibility for workers' compensation benefits or disability or death benefits from the retirement system.

This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in that county.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 4)

§31520.5. Counties with 9-member retirement boards; appointment of alternate retired member; term

(a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662), the board of retirement may, by majority vote, appoint, from a list of nominees submitted by a qualified retiree organization, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member. Thereafter, the alternate retired member shall be elected separately by the retired members of the association in the same manner and at the same time as the eighth member is elected. An organization shall be deemed to be a "qualified retiree organization" for purposes of this subdivision if a majority of the members of the organization are retired members of the system.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office.

(c) Except as otherwise provided in this section, the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member.

(d) The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.

(e) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Sections 31521 and 31521.1, whether or not the eighth member is in attendance at those meetings.

(f) (1) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the eighth member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in Section 31520.1.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 5)

§31521. Compensation of members; expenses

The board of supervisors may provide that the fourth and fifth members, and in counties having a board consisting of nine members or nine members and an alternate retired member, the fourth, fifth, sixth, eighth, ninth, and alternate retired members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of the board of investments, shall receive compensation at a rate of not more than one hundred dollars (\$100) for a meeting, or for a meeting of a committee authorized by the board, for not more than five meetings per month, together with actual and necessary expenses for all members of the board.

(Amended by Stats. 1983, Ch. 466, Sec. 1)

(Amended by Stats. 1998, Ch. 109 (A.B. 1766), Sec. 1)

(Amended by Stats. 2007, Ch. 320 (A.B. 753), Sec. 3)

§31521.1. Compensation of members (Los Angeles)

(a) The board of supervisors may provide that in counties having a board consisting of nine members and an alternate retired member, the fourth, fifth, sixth, eighth, ninth, and alternate retired members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of the board of investments, shall receive compensation at a rate of not more than one hundred dollars (\$100) for a meeting, or for a meeting of a committee authorized by the board, for not more than five meetings per month, together with actual and necessary expenses for all members of the board.

(b) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1990, Ch. 419, Sec. 3, Effective July 26, 1990)

(Amended by Stats. 2007, Ch. 320 (A.B. 753), Sec. 4)

§31521.3. Compensation of specified members for review and analysis of disability retirement cases

(a) The board of supervisors may provide that the fourth, fifth, sixth, eighth, ninth, and alternate retired members of the board of retirement shall receive compensation for the review and analysis of disability retirement cases. The compensation shall be limited to the first time a case is considered by the board and shall not exceed one hundred dollars (\$100) per day. The compensation shall be prorated for less than eight hours of work in a single day.

(b) A board member compensated pursuant to subdivision (a) shall certify to the retirement board, in a manner specified by the retirement board, the number of hours spent reviewing disability cases each month. The number of hours compensated under this section shall not exceed 32 hours per month.

(c) On or before March 31, 2010, and on or before March 31 in each even-numbered year thereafter, the compensation limit established by the board of supervisors pursuant to subdivision (a) shall be adjusted biennially by the board of retirement to reflect any change in the Consumer Price Index for the Los Angeles, Riverside, and Orange County areas that has occurred in the previous two calendar years, rounded to the nearest dollar.

(d) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 2007, Ch. 320 (A.B. 753), Sec. 5)

(Amended by Stats. 2008, Ch. 179 (S.B. 1498), Sec. 103)

§31522. Duties of board members; additional compensation

The official duties of elected board members who are employees of the county or a district shall be included as part of their county or district employment and their board duties shall normally take precedence over any other duties. The elected board members who are county or district employees shall not receive any additional compensation by virtue of their election to the board.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Repealed and added by Stats. 1998, Ch. 109 (A.B. 1766), Sec. 2 and 3)

§31522.1. Appointment of staff personnel; civil service or merit system; compensation

The board of retirement and both the board of retirement and board of investment may appoint such administrative, technical, and clerical staff personnel as are required to accomplish the necessary work of the boards. The appointments shall be made from eligible lists created in accordance with the civil service or merit system rules of the county in which the retirement system governed by the boards is situated. The personnel shall be county employees and shall be subject to the county civil service or merit system rules and shall be included in the salary ordinance or resolution adopted by the board of supervisors for the compensation of county officers and employees.

(Amended by Stats. 1979, Ch. 55, Sec. 1, Effective May 11, 1979)

§31522.2. Administrator

In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint an administrator as provided for in this section. The position of the administrator shall not be subject to county civil service or merit system rules. The person so appointed shall be a county employee and the position of administrator shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The administrator so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the administrator by the appointing board or boards.

This section shall not be operative in any county unless the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(Added by Stats. 1987, Ch. 188, Sec. 1, Effective July 23, 1987)

§31522.3. Assistant administrators; chief investment officers (San Diego, Sacramento, Kern, San Joaquin, Marin)

(a) In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint assistant administrators and chief investment officers as provided for in this section. The positions of the assistant administrators and chief investment officers designated by the retirement board shall not be subject to county charter, civil service, or merit system rules. The persons so appointed shall be county employees and shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The assistant administrators and chief investment officers so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the assistant

administrators and chief investment officers by the appointing board or boards.

(b) This section shall not apply to any person who was an assistant administrator or a chief investment officer and was included in the county civil service or was subject to merit system rules on December 31, 1996.

(c) This section shall only apply to a county of the third class, a county of the eighth class, a county of the 14th class, a county of the 15th class, or a county of the 18th class, as provided by Sections 28020, 28024, 28029, 28035, 28036, and 28039.

(Added by Stats. 1996, Ch. 512 (A.B. 2655), Sec. 2)

(Amended by Stats. 2006, Ch. 846 (A.B. 2863), Sec. 2, Effective September 30, 2006)

§31522.4. Assistant administrators, persons next in line of authority to assistant administrators, chief legal officers, chief deputy legal officers, chief investment officers, and investment officers next in line of authority to chief investment officers; applicability (Los Angeles)

(a) In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Sections 31522.1 and 31522.2, the respective board or boards may elect to appoint assistant administrators, persons next in line of authority to assistant administrators, chief legal officers, chief deputy legal officers, chief investment officers, and investment officers next in line of authority to chief investment officers as provided for in this section. These positions designated by the board or boards shall not be subject to county charter, civil service, or merit system rules. The persons appointed shall be county employees and their positions shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The persons appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the persons so appointed by the appointing board or boards.

(b) This section shall not apply to any person who was an assistant administrator, person next in line of authority to an assistant administrator, chief legal officer, chief deputy legal officer, chief investment officer, or investment officer next in line of authority to a chief investment officer and was included in the county civil service or was subject to merit system rules on December 31, 2001, unless that person consents to make this section applicable to him or her.

(c) This section shall only apply to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 2001, Ch. 120 (S.B. 1132), Sec. 1)

§31522.5. Additional personnel; appointment authority (Orange, San Bernardino)

(a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint an administrator, an assistant administrator, a chief investment officer, senior management employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel.

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement.

Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for

county employees, including those set forth in a memorandum of understanding.

(c) Except as otherwise provided by Sections 31529.9 and 31596.1, the compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable to any retirement system that elects to appoint personnel pursuant to this section.

(f) This section shall apply only in Orange County.

(g) This section shall apply to the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(Added by Stats. 2002, Ch. 74 (A.B. 1992), Sec. 2, Effective June 27, 2002, as an urgency statute)

(Amended by Stats. 2006, Ch. 369 (S.B. 777), Sec. 5)

(Amended by Stats. 2008, Ch. 164 (A.B. 3044), Sec. 4)

§31522.6. Contract with third party to administer system; Cost

The board may contract with a third party to temporarily assume administration of the system if a catastrophic event destroys or severely damages the system's administrative facilities or otherwise prevents or significantly hinders continued local administration of the system. Local administration of the system shall resume as soon as practicable.

The costs of contracting with the third party for temporary administration of the system shall be a charge against the investment earnings of the retirement fund.

(Added by Stats. 2004, Ch. 533 (A.B. 2234), Sec. 19)

§31522.7. (Operative date contingent) Additional personnel; not employees of the county; appointment authority (San Bernardino)

(a) In addition to the authority provided pursuant to Section 31522.5, the board of retirement in the County of San Bernardino may appoint an administrator, an assistant administrator, a chief investment officer, senior management employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, supervisors and employees with specialized training and knowledge in pension benefit member services, investment reporting compliance, investment accounting, pension benefit tax reporting, pension benefit financial accounting, pension law, and legal counsel.

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county's employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

(c) Except as otherwise provided by Sections 31529.9 and 31596.1, the compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable if the retirement system elects to appoint personnel

pursuant to this section.

(f) This section shall apply only to the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(Added by Stats. 2009, Ch. 393 (A.B. 1406), Sec. 1)

§31523. Filling vacancies in the second, third, seventh, eighth, or alternate seventh member position of the board of retirement

(a) In the event of a vacancy in the second, third, seventh, eighth, or alternate seventh member position on the board of retirement, the board shall cause an election to fill the vacancy to be held at the earliest possible date, except as provided in Sections 31520.3 and 31520.5. The vacancy in the second, third, or eighth member position on the board of retirement shall be filled for the duration of the current term except that, if the remaining portion of the current term is six months or less on the date of the election, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term. With respect to a vacancy in the seventh member position, candidates shall be a safety member from a group which is not represented by an incumbent alternate seventh member. With respect to the alternate seventh member position, the candidates shall be limited to the group under Section 31470.2 or 31470.4, or any other eligible safety member in a county if there is no eligible candidate from the groups under Sections 31470.2 and 31470.4 that is not represented by an incumbent seventh board member. The successful candidate shall serve for the duration of the current term.

(b) If there is a vacancy with respect to the alternate retired member, the board of retirement shall, by majority vote, appoint a replacement alternate member in the same manner as prescribed in Sections 31520.3 and 31520.5 for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current eighth member.

(c) If an election has been called on the expiration of the term of office of any member or alternate member, or to fill a vacancy for the second, third, seventh, eighth, or alternate seventh member of a board of retirement, and only one candidate has been duly nominated in accordance with the rules established for the holding of that election, the board of supervisors shall order that no election be held and shall direct the clerk to cast a unanimous ballot in favor of the candidate.

(Repealed and added by Stats. 2011, Ch. 124 (SB 203), Sec. 6 and Sec. 7)

§31523.1. Filling vacancies in the second, third, fourth, or eighth member position of the board of investments

(a) In the event of a vacancy in the second, third, fourth, or eighth member position on a board of investments established pursuant to Section 31520.2, the board of investments shall cause an election to be held at the earliest possible date to fill the vacancy. The vacancy in the second, third, fourth, or eighth member position shall be filled for the duration of the current term except that, if the remaining portion of the current term on the date of the election is six months or less, a single election may be held to fill the vacancy for the remainder of the current term and to fill the position for the succeeding term.

(b) If an election has been called on the expiration of the term of office of any member, or to fill a vacancy for the second, third, fourth, or eighth member position of a board of investments, and only one candidate has been duly nominated in accordance with the rules established for the holding of that election, the board of supervisors shall order that no election be held and shall direct the clerk to cast a unanimous ballot in favor of the candidate.

(Added by Stats. 2011, Ch. 124 (SB 203), Sec. 8)

§31524. Separation from service

Separation from the service of the county of a member of the board vacates his office.
(Added by Stats. 1947, Ch. 424, Sec. 1)

§31525. Regulations; approval

The board may make regulations not inconsistent with this chapter. The regulations become effective when approved by the board of supervisors.
(Added by Stats. 1947, Ch. 424, Sec. 1)

§31526. Requisites of regulations

The regulations shall include provisions:

(a) For the election of officers, their terms, meetings, and all other matters relating to the administrative procedure of the board.

(b) For the filing of a sworn statement by every person who is or becomes a member, showing date of birth, nature and duration of employment with the county, compensation received, and such other information as is required by the board.

(c) For forms of annuity certificates and for such other forms as are required.
(Amended by Stats. 1961, Ch. 1852, Sec. 3)

§31527. Permissible provisions in regulations

In its regulations, the board may include the following provisions:

(a) From what warrants deductions of members' contributions shall be made.

(b) For a period of time longer than one year during which a member may redeposit in the retirement fund an amount equal to all of the accumulated normal contributions which he or she has withdrawn, plus regular interest thereon from the date of return to service.

(c) For a period of time longer than one year during which a member brought within the field of membership may pay into the retirement fund the amount equal to the contributions he or she would have made plus interest, if he or she had been a member from the date of its organization, or from the date of his or her entrance into service, whichever is later.

(d) For a withdrawal charge against a member who withdraws his or her accumulated contributions. The withdrawal charge shall not exceed the interest credited to the member subsequent to the effective date of the regulation.

(e) For the exemption or exclusion from membership as a peace officer member or as a safety member or from membership altogether, in the discretion of the board, of persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour.

(f) For the periodic physical examination, at county expense, of safety members.

(g) The amount of additional deductions from the salaries or wages of members pursuant to Article 15.5 or 16. Such a provision may be adopted in anticipation of, and prior to Article 15.5 or 16 becoming operative in the particular county.

(h) The day upon which each person becomes a member of the association if it is to be other than the first day of the calendar month after his or her entrance into service, provided that day shall be no later than 12 weeks after his or her entrance into service, or the day upon which the member terminates service credited by the association, provided that the day shall be no earlier than 12 weeks prior to the member's termination from employment.

(Amended by Stats. 1967, Ch. 492, Sec. 1)

(Amended by Stats. 2010, Ch. 158 (SB 1479), Sec. 1)

§31528. Member or employee not to have interest in investments of board; use of funds; revolving door prohibition

(a) Unless permitted by this chapter, a member or employee of the board shall not become an endorser, surety, or obligor on, or have any personal interest, direct or indirect, in the making of any investment for the board, or in the gains or profits accruing from those investments. A member or employee of the board shall not directly or indirectly, for himself or herself, or as an agent or partner of others, borrow or use any of the funds or deposits of the retirement system, except to make current and necessary payments authorized by the board.

(b) A member or employee of the board shall not, directly or indirectly, by himself or herself, or as an agent or partner or employee of others, sell or provide any investment product that would be considered an asset of the fund, to any retirement system established pursuant to this chapter.

(c) An individual who held a position designated in Section 31522.3, 31522.4, or 31522.5, or was a member of the board or an administrator, shall not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person except the county, by making any formal or informal appearance before, or any oral or written communication to, the retirement system, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 2007, Ch. 315 (A.B. 246), Sec. 3)

(Amended by Stats. 2009, Ch. 301 (A.B. 1584), Sec. 8 – Urgency Statute, Effective October 11, 2009)

§31529. Attorney for board

The district attorney, or the county counsel if there is one, is the attorney for the board.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31529.1. Legal representation; cost (Los Angeles)

Notwithstanding any other provision of this part, the board of retirement or the board of investment may elect to secure legal representation, on such matters as the board of retirement or the board of investment may specify, from other than the county counsel. The cost of the legal representation shall not exceed one-hundredth of 1 percent of system assets in any budget year.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1992, Ch. 1047, Sec. 2, Effective January 1, 1993)

§31529.5. Legal services of attorney in private practice; compensation; resolution

Notwithstanding Section 31529, the board may contract for the legal services of an attorney in private practice when the board determines, after consultation with the county counsel, that the county counsel cannot provide the board with legal services due to a conflict of interest or other compelling reason. The compensation of such attorney shall be paid from the portion of reserves created by Section 31592 which exceed one percent of the total assets of the fund, or in the absence of such excess reserves, from the county general fund. This section shall not be operative in any county until such time as the board of supervisors shall,

by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1977, Ch. 202, Sec. 1)

§31529.6. Legal services of attorney in private practice; compensation (Los Angeles)

In addition to the powers granted by Sections 31529, 31529.5, and 31614, the board of retirement and the board of investment may contract with attorneys in private practice for legal services and advice. The boards shall pay reasonable compensation for the legal services and advice. The compensation shall be considered a cost of administration of the system.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(Added by Stats. 1990, Ch. 1467, Sec. 1)

§31529.9. Legal services (Orange, Kern, San Joaquin, Santa Barbara, San Bernardino)

(a) In addition to the powers granted by Sections 31522.5, 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31522.5, 31522.7, 31529.5, and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section applies to any county of the 2nd class, 7th class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 28035, 28036, and 28037.

(d) This section shall also apply to any other county if the board of retirement, by resolution adopted by majority vote, makes this section applicable in the county.

(Added by Stats. 1996, Ch. 272 (A.B. 2633), Sec. 1)

(Amended by Stats. 2002, Ch. 116 (S.B. 1752), Sec. 1)

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 3)

(Amended by Stats. 2008, Ch. 164 (A.B. 3044), Sec. 5)

(Amended by Stats. 2009, Ch. 393 (A.B. 1406), Sec. 2)

§31530. County health officer

The county health officer shall advise the board on medical matters and, if requested by the board, shall attend its meetings.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31531. Estimate of member's service or age

If it is impracticable for the board to determine from the records the length of service or the age of any member, or if the member refuses or fails to give the board a statement of his service or age, it may estimate his length of service or age for the purposes of this chapter.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31532. Confidential statements and records

Sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter or upon order of a court of competent jurisdiction, or upon written authorization by the member.

(Amended by Stats. 1969, Ch. 239, Sec. 1)

§31533. Referee; appointment; hearing; findings and recommendations

Whenever, in order to make a determination, it is necessary to hold a hearing the board

may appoint either one of its members or a member of the State Bar of California to serve as a referee. The referee shall hold such a hearing and shall transmit, in writing, to the board his proposed findings of fact and recommended decision.

(Amended by Stats. 1968, Ch. 547, Sec. 1)

§31534. Service of findings and recommendations; objections; proceedings on referee's report

The proposed findings of fact and recommendations of the referee shall be served on the parties who shall have 10 days to submit written objections thereto which shall be incorporated in the record to be considered by the board.

Upon receiving the proposed findings of fact and the recommendations of the referee, the board may:

- (a) Approve and adopt the proposed findings and the recommendations of the referee,
- or
- (b) Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon the receipt thereof the board shall take such action as in its opinion is indicated by such evidence, or
- (c) Refer the matter back with or without instructions to the referee for further proceedings, or
- (d) Set the matter for hearing before itself. At such hearing the board shall hear and decide the matter as if it had not been referred to the referee.

(Amended by Stats. 1968, Ch. 546, Sec. 1)

§31535. Issuance of subpoenas; taking of depositions

The board may issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as the similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1, Part 2, Division 2; except that the power shall extend only to matters within the retirement board's jurisdiction, and committees of the board shall not have this power. Reasonable fees and expenses may be provided for by board regulation for any or all of such witnesses regardless of which party subpoenaed them.

Subpoenas shall be signed by the chairman or secretary of the retirement board, except that the board may by regulation provide for express written delegation of its subpoena power to any referee it appoints pursuant to this chapter or to any administrator appointed pursuant to Section 31522.2.

Any member of the board, the referee, or any person otherwise empowered to issue subpoenas may administer oaths to, or take depositions from, witnesses before the board or referee.

(Amended by Stats. 1990, Ch. 652, Sec. 1)

§31535.1. Subpoenas; compensation of witnesses (Los Angeles)

The board may issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as the similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1 of Part 2 of Division 2 of this title; except that the power shall extend only to matters within the board's jurisdiction, and committees of the board shall not have this power. Reasonable fees and expenses may be provided for by board regulation for any or all of the witnesses regardless of which party subpoenaed them.

Subpoenas shall be signed by the chairman or secretary of the board, except that the board may by regulation provide for express written delegation of its subpoena power to the

retirement administrator or to any referee it appoints pursuant to this chapter.

Any member of the board, the referee, or any person otherwise empowered to issue subpoenas may administer oaths to, or take depositions from, witnesses before the board or referee.

This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961

(Amended by Stats. 2011, Ch. 48 (SB 637), Sec. 2)

§31536. Denial of benefit or allowance; appeal; attorney fees

If a superior court reverses the denial by the board of an application for a retirement allowance, or for a survivor's allowance based on such allowance, or for a claim based on a claimed pension right or benefit, the superior court in its discretion may award reasonable attorney's fees as costs to the member or beneficiary of the member who successfully appealed the denial of such application. Such costs shall be assessed against the board, shall be considered a cost of administration, and shall in no event become a personal liability of any member of the board.

(Added by Stats. 1978, Ch. 556, Sec. 1)

§31537. Records management procedures

The board may establish efficient records management procedures, which may include, but need not be limited to, maintenance and, when determined by the board to be necessary, disposal of records in its jurisdiction.

(Added by Stats. 1993, Ch. 24, Sec. 1)

(Amended and Renumbered as Section 31592.5 by Stats. 2004, Ch. 441, Sec. 2)

§31538. Adjustments on payment of benefits

(a) The board shall adjust the payment of benefits payable pursuant to this part, as necessary, in order to maximize the benefits available to members who are subject to the limits of Section 415 of the Internal Revenue Code. Those adjustments shall include, but are not limited to, cost-of-living adjustments, cost-of-living banks, temporary annuities, survivor continuance benefits, or any combinations thereof.

(b) The amount payable to a member in any limitation year, including cost-of-living adjustments, shall not exceed the limit established under Section 415(b) of the Internal Revenue Code at the annuity starting date, and as may be increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and applicable regulations.

(c) The cost-of-living adjustments made pursuant to Section 415(d) of the Internal Revenue Code to the limit established under Section 415(b) of the Internal Revenue Code continue to apply after a member's severance from employment or annuity starting date.

(Added by Stats. 1990, Ch. 797, Sec. 2, Effective September 13, 1990)

(Amended by Stats. 2010, Ch. 188 (AB 1354), Sec. 2)

§31539. Correction of error; Prospective and retroactive adjustments; Rights and remedies; Period of limitation

(a) The board of retirement may, in its discretion, correct any error made in the calculation of a retired member's monthly allowance or any other benefits under this chapter, if either of the following exist:

(1) The error in the calculation of the member's monthly allowance or other benefits under this chapter was made as a result of fraudulent reports for compensation made, or

caused to be made, by the member for his or her own benefit.

(2) The member caused his or her final compensation to be improperly increased or otherwise overstated at the time of retirement and the system applied that overstated amount as the basis for calculating the member's monthly retirement allowance or other benefits under this chapter.

(b) The retirement allowance or other benefits under this chapter with respect to a retired member described in subdivision (a) shall be adjusted prospectively to the amount that would have been payable if the overstatement of the member's final compensation had not occurred.

(c) Adjustment of the member's retirement allowance or other benefits may also be implemented retroactively and include the collection or return of the overpayment of benefits. The board of retirement may direct staff to correct the overpayment of benefits by offsetting the amount to be recovered against future benefits. Adjustments to correct the overpayment of benefits may also be made by adjusting the allowance so that the retired member or the retired member and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies any party may have at law or in equity. Nothing in this section shall preclude any party from instituting an action for declaratory or other relief in lieu of proceeding under this section.

(e) The period of limitation of actions under this section shall be 10 years and that period shall commence either from the date of payment or upon discovery of the facts described in subdivision (a), whichever date is later. The board shall determine the applicability of the period of limitation in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error.

(Added by Stats. 2004, Ch. 466 (SB 1206), Sec. 1)

Article 4 **Membership**

(Article 4 added by Stats. 1947, Ch. 424, Sec. 1)

§31550. Retirement association

Whenever this chapter becomes operative in any county a retirement association shall be organized.

(Added by Stats. 1947, Ch. 424)

§31551. Eligibility to membership; exclusion

The persons expressly declared to be ineligible to membership by this article shall not become members of the retirement association, and, except as expressly excluded, the persons enumerated in this article shall become members of the association.

Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, the Comprehensive Employment and Training Act of 1973 (Public Law 93-203), as amended, are excluded from membership. This exclusion shall not apply to active fire suppression personnel who are safety members pursuant to Sections 31469.3 and 31470.4.

(Amended by Stats. 1979, Ch. 115, Sec. 1, Effective June 15, 1979)

§31552. Automatic membership; waiver of membership

All existing officers and employees of the county become members of the association on the day the retirement system becomes operative, and thereafter each person entering the county employ becomes a member on the first day of the calendar month after his entrance into the service, unless otherwise provided by regulations adopted by the board. Such regulations may provide for waiver of membership by the prospective employee in the case of newly hired employees who have attained the age of 60. In all cases where there is such a waiver, said employee upon attaining the age of 70 shall thereafter be employed from year to year at the discretion of the county.

(Amended by Stats. 1965, Ch. 1668, Sec. 1)

§31552.1. Membership of existing officers and employees not members because of statute

On the first day of the calendar month after this section takes effect all existing officers and employees of the county, who, because of the provisions of Section 31552 prior to its amendment in 1953, were not members, become members on that day.

(Added by Stats. 1953, Ch. 789, Sec. 3)

§31552.2. Officers and employees who became members on first day of calendar month following expiration of 180 days after entry into service; prior service credit; contributions

All existing officers and employees of the county, now members of the retirement system, and who became employed by the county during that interim period when the law did not allow membership into the retirement system until the first day of the calendar month following the expiration of the 180 days after his entrance into service, shall be allowed to make contributions and receive credit for that period of time as prior county service. The contribution rate shall be as prescribed in Section 31641.5 and election to receive credit for such service shall be available until time of filing of notice of retirement from county service.

(Added by Stats. 1970, Ch. 705, Sec. 1)

§31553. Elective officers; filing declaration to become member; withdrawal

Elective officers become members of the retirement association on the first day of the calendar month following the filing of a declaration with the board to become a member, provided, however, that any such elective officer may, within 60 days after the expiration of the officer's term of office or within 60 days after the officer ceases to hold the office, rescind the declaration and withdraw from the retirement association. In such cases, all contributions paid by the member shall be refunded in the same manner as applicable to members terminating service.

(Amended by Stats. 1981, Ch. 329, Sec. 1)

§31554. Officers and attachés of superior court; persons included

All officers and attachés of the superior court established within the county, except judges and participants in any other pension system, become members of the association on the first day of the calendar month after the board of supervisors adopts by four-fifths vote a resolution providing for their inclusion. Thereafter each person entering such employ becomes a member on the first day of the calendar month following his entrance into the service of the court.

In this section "officer or attaché of the superior court" includes all commissioners, phonographic reporters who are paid salaries or per diems by the county and whose contributions are based upon such salaries or per diems, secretaries, stenographers, investigators, messengers, or other employees of the court.

(Amended by Stats. 1955, Ch. 372, Sec. 6)

§31556. Appropriations and deductions for court officers and attachés

The board of supervisors and all other county officers shall make the appropriations and perform the duties specified in this chapter with reference to court officers and attachés in the same manner as specified for county or district officers or employees. The deductions provided for in this chapter shall be made from the salaries of such officers or attachés in the same manner as for officers or employees of the county or districts.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31557. Officers and employees of districts; inclusion in membership

All officers and employees of any district become members of the association on the first day of the calendar month after:

(a) In the case of districts for which the board of supervisors is the governing body, such body adopts by four-fifths vote a resolution providing for the inclusion of the district in the retirement association.

(b) In the case of districts for which the board of supervisors is not the governing body, the governing body adopts by a two-thirds vote, a resolution providing for the inclusion of the district in the retirement association and the board, by majority vote, consents thereto. Thereafter, each person entering such employment becomes a member on the first day of the calendar month following his entrance into the service. However, if prior to January 1, 1976, the governing body and the board of retirement have executed an agreement providing for the purchase of prior service, the agreement may be amended to provide that the date of membership in the retirement association for any officer or employee shall be the first day of the calendar month following the officer's or employee's entrance into district service.

Members may be withdrawn from the association in the manner provided in Section 31564.

(Amended by Stats. 1980, Ch. 430, Sec. 1, Effective July 11, 1980)

§31557.1. Officers and employees of Regents of the University of California; previous employees of county hospital; membership

Officers and employees of a district as defined in subdivision (g) of Section 31468, become members on the date specified in the agreement between the regents and the board of supervisors relating to the transfer to the regents of the hospital in which they are employed or of the obligation to provide professional medical services at the hospital in which they are employed. Notwithstanding Section 31564, if the agreement so provides, those employees shall cease to be members on the date of a referendum relating to coverage of those members under the Federal Old Age, Survivors, Disability, and Health Insurance Program in which less than a majority of those eligible employees voted in favor of that coverage.

(Amended by Stats. 1991, Ch. 99, Sec. 2)

§31557.2. Validation of action taken by governing body under section 31577; validation of membership

Any action heretofore taken by the governing body of a district under Section 31557, or under color of that section, is hereby confirmed and validated and made fully effective. Membership in the association of any officers and employees of any district who were included in the association by such action of the governing body, is hereby validated and confirmed and made fully effective as of the time of such inclusion.

(Added by Stats. 1959, Ch. 1676, Sec. 1, Effective July 8, 1959)

§31557.3. Membership; inclusion of personnel previously in county service (Orange, San Bernardino)

On the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, any personnel appointed pursuant to Section 31522.5 who had previously been in county service shall continue to be members of the system without interruption in service or loss of credit. Thereafter, each person entering employment with the district shall become a member of the system on the first day of the calendar month following his or her entrance into service.

(Added by Stats. 2002, Ch. 74 (A.B. 1992), Sec. 3, Effective June 27, 2002, as an urgency statute)

§31558. Time of becoming safety members; eligibility

All existing members of a pension system established pursuant to either Chapter 4 (commencing with Section 31990) or Chapter 5 (commencing with Section 32200) of this part and all employees eligible as safety members who at the time of entering service elected to become safety members, or who subsequently became members, shall become safety members and thereafter each person employed in a position, the principal duties of which consist of active law enforcement or active fire suppression or juvenile hall group counseling and group supervision, as defined in Sections 31469.3, 31469.4, 31470.2 and 31470.4, shall become a safety member on the first day of the calendar month following his or her entrance into the service. The sheriff and undersheriff shall become safety members on the first day of the calendar month following their entrance into the service. The marshal and assistant marshal shall become safety members on the first day of the calendar month following their appointment.

(Amended by Stats. 1986, Ch. 840, Sec. 1)

§31558.1. Time of becoming safety member; law enforcement or fire suppression personnel; contributions; credit for service

Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to July 1, 1969, was employed in a position, the principal duties of which consist

of active law enforcement as defined in Section 31469.3 or active fire suppression as defined in Section 31470.4, who has continuously since his or her employment made the salary contributions required of a safety member, and who has continuously since his or her employment been employed in a position which would make such person eligible to become a safety member if he or she had not been over the age of 35 years at the time of his or her employment, shall become a safety member as of the first day of the calendar month following his or her original entrance into the service.

A member who meets the requirements of the preceding paragraph, except that he or she has not made the contributions required of a safety member, may receive credit for such services, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been required if he or she had been a safety member. Such additional contributions are to be made prior to retirement and notice of election to receive credit for service, as a safety member, pursuant to this section, shall be made to the retirement board prior to April 1, 1975.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make the provisions of the section applicable in that county.

(Amended by Stats. 1986, Ch. 840, Sec. 2)

§31558.2. Persons employed in active law enforcement; election to become safety member; credit for service; contributions

Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to the effective date of this section was employed in positions the principal duties of which consist of active law enforcement for not less than 10 years and who is employed by a county in a position which would make such person eligible to become a safety member at the time of his or her employment, may, if he or she so elects, become a safety member as of the first day of the calendar month following his or her entrance into county service.

A member may receive credit for such service, as a safety member, when he or she has contributed, with nearest to the date paid, the difference between contributions made and those which would have been made by the member if he or she had been a safety member. Such additional contributions shall be made prior to retirement.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

(Amended by Stats. 1986, Ch. 840, Sec. 3)

§31558.5. Time of becoming safety members; permanent employees engaged in active law enforcement (various)

All members employed by a county having a population in excess of 2,000,000 who are employed on and prior to January 1, 1958, whose duties are described in Section 31470.6 and who prior to that date file with the board a written election to become safety members, shall become safety members on January 1, 1958.

All members employed by a county having a population of 2,000,000 or less and in excess of 500,000, who are employed on and prior to January 1, 1960, whose duties are described in Section 31470.6 and who prior to that date file with the board a written election to become safety members, shall become safety members on January 1, 1960.

After January 1, 1958, each person not over 35 years of age when employed by a county having a population in excess of 2,000,000 in a position the principal duties of which are described in Section 31470.6, shall become a safety member on the first day of the calendar month following his entrance into the service.

After January 1, 1960, each person not over 35 years of age when employed by a county having a population of 2,000,000 or less and in excess of 500,000 in a position the principal duties of which are described in Section 31470.6, shall become a safety member on the first day of the calendar month following his entrance into the service

(Amended by Stats. 1959, Ch. 797, Sec. 2)

§31558.6. Time of becoming safety members; juvenile hall group counselors and group supervisors

Notwithstanding any of the provisions of Section 31558 to the contrary, each person who is employed in a position, the principal duties of which consist of juvenile hall group counseling and group supervision as defined in Section 31469.4, on the date the provisions of Section 31469.4 are made applicable in a county by the board of supervisors and who files with the board written election to become a safety member on or prior to one year after the date the provisions of Section 31469.4 are made applicable in a county by the board of supervisors, shall become a safety member.

Thereafter each person when employed in such positions, shall become a safety member on the first day of the calendar month following his or her entrance into the service.

(Amended by Stats. 1986, Ch. 840, Sec. 4)

§31558.8. Counties of the third class; eligibility of certain detectives or investigators in district attorney's office to become safety members; contributions; operation of section (San Diego)

Notwithstanding any of the provisions of Section 31558 to the contrary, a person over 35 years of age who is employed by a county of the third class, as established by Sections 28020 and 28024, as amended in 1971, as a detective or investigator in the office of the district attorney, which would make the person eligible to become a safety member if he or she had not been over the age of 35 years at the time of his or her employment, may, if he or she so elects, become a safety member as of the first day of the calendar month following his or her entrance into county service regardless of age.

A member may receive credit for that service, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been made by the member if he or she had been a safety member. The additional contributions shall be made prior to retirement.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make this section applicable in the county.

(Added by Stats. 1985, Ch. 860, Sec. 1)

§31559. County or district assuming functions of public agency; effect on employees

Whenever a county or district subject to the provisions of this chapter takes over and assumes any of the functions of any other public agency, and because of such assumption all or any employees of such other public agency become employees of such county or district, any such employee whose principal duties consist of active law enforcement or active fire suppression, as defined in Sections 31469.3, 31470.2 and 31470.4, who, because of such transfer of functions, is employed in such a position in such county or district, shall become a safety member on the first day of the calendar month following his entrance into service.

(Amended by Stats. 1957, Ch. 2399, Sec. 10, Effective October 1, 1957)

§31560. Persons remaining safety members

A safety member shall remain a safety member only while the principal duties of his position consist of active law enforcement, active fire suppression or active lifeguard service as defined in Section 31469.3. While holding any other position in county service he shall remain a member but not a safety member.

(Amended by Stats. 1961, Ch. 1694, Sec. 4)

§31561. Temporary technical or professional employees ineligible

Any person employed under contract for temporary services requiring professional or highly technical skill is ineligible for membership.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31562. Elective officer not declaring intention to become member

Any elective officer who does not declare his intention to become a member of the retirement association as required by this chapter is ineligible to membership.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31563. Forfeiture of position

Notwithstanding any other provision of law, a person ceases to be a member for any portion of his or her service as an elected public officer that is forfeited pursuant to Section 1243.

(Added by Stats. 2005, Ch. 322 (A.B. 1044), Sec. 3)

§31564. Withdrawal of district employees; petition; fund disposition; effective date

All officers and employees of any district who have become members of the association as provided in Section 31557, may be withdrawn by a resolution of the governing body declaring all of the district's employees withdrawn from the association; provided, the governing body has first received a written petition signed by a majority of its officers and employees requesting that the district's officers and employees be withdrawn from the association.

Upon the adoption of any resolution to withdraw its members, all accumulated contributions held in the association shall be refunded to the district's employees upon the effective date of their withdrawals and in the same manner as the accumulated contributions would be refunded upon the termination of their employment by the district.

Upon the adoption of any resolution to withdraw its members and where there are no existing retirees from the district, the district's contributions shall be refunded to the district, or shall, upon the election of and designation by the governing body of the district, be transferred to another public retirement system.

In the event of the transfer of district contributions to another public retirement system, the employee contributions shall also be transferred to the other public retirement system.

The effective date of withdrawal of any resolution adopted pursuant to this section shall be at the end of the calendar month during which such resolution is adopted.

(Amended by Stats. 1969, Ch. 317, Sec. 1, Effective June 30, 1969)

§31564.2. Liability of district upon termination of participation

(a) If a district's participation in the retirement system is terminated pursuant to the provisions of Section 31564, the district shall remain liable to the retirement system for the district's share of any unfunded actuarial liability of the system which is attributable to the officers and employees of the district who either have retired or will retire under the retirement system.

(b) Unless otherwise developed by an actuarial source and approved by the board of retirement, the amount of the district's liability shall be the unfunded actuarial liability of the entire system, computed as described below, multiplied by a fraction:

(1) The numerator of which is the total amount required to be contributed to the plan by the withdrawing district for the last five years ending prior to the withdrawal date.

(2) The denominator of which is the total amount required to be contributed to the plan by all participating employers for the last five years.

The plan's total unfunded actuarial liability for this purpose shall be calculated on the basis of the actuarial assumptions used in the plan's most recent actuarial valuation, except that all district members shall be assumed to terminate as of the date of withdrawal.

(c) The district's liability shall be paid in accordance with a schedule determined by the retirement board over a period no longer than the period over which the plan's remaining unfunded actuarial liability is being amortized.

(d) The funding of the retirement benefits for the employees of a withdrawing agency is solely the responsibility of the withdrawing agency or the board of supervisors. Notwithstanding any other provision of law, no contracting agency shall fail or refuse to pay the employer's contribution required by this chapter or to pay the employer's contribution required by this chapter within the applicable time limitations. In dealing with a withdrawing district, the board of retirement shall take whatever action needed to ensure the actuarial soundness of the retirement system.

(e) The Legislature finds and declares that this section is declaratory of existing law, to the extent this section provides that upon withdrawal from the retirement system, a district shall remain liable for its share of the unfunded actuarial liability of the system. This section is intended to define the method of calculating the district's share of that unfunded actuarial liability.

(Added by Stats. 1998, Ch. 109 (A.B. 1766), Sec. 4)

§31564.5. Contract by governing body of district for additional appropriation to pay costs of system

Whenever the governing body of a district for which the board of supervisors is not the governing body adopts a resolution for the inclusion of such district in the retirement association, if, in the opinion of the board because of conditions peculiar to such district the contributions required from such district by this chapter are insufficient to pay the same proportion of the costs of the system as will be paid by the county, the board may require that such district contract with the board to appropriate additional sums. If, because of conditions peculiar to such district the contributions required from such district by this chapter are greater than necessary to pay the same proportion of the costs of the system as will be paid by the county, the board and such district may contract for lesser sums. Either of such contracts may provide, among other things, that whenever the board of supervisors makes an additional appropriation pursuant to Section 31454.5, the district also will make an additional appropriation calculated by a formula specified in such contract. All such districts are hereby authorized to enter into and perform such contracts.

(Added by Stats. 1957, Ch. 1387, Sec. 3)

§31565. Transfer of membership to state teachers' retirement system; withdrawal of contributions

Any member of a system established under this chapter who is employed in a status requisite for membership in the State Teachers' Retirement System, may elect to transfer his membership to that system. Any member who elects to transfer his membership pursuant to

this section may also elect in writing to withdraw his accumulated contributions, and in such event he shall be paid all of his accumulated contributions in the county retirement system.

(Added by Stats. 1957, Ch. 1452, Sec. 1)

§31565.5. Election of employees of county superintendent of schools to remain members of county system

Any member of a system established under this chapter who ceases to be an employee of the county under the provisions of Education Code Section 873 may elect as authorized in Education Code Section 873.1 to remain a member of such system.

(Added by Stats. 1965, Ch. 717, Sec. 6, Effective June 18, 1965)

§31567. Member employed in active law enforcement or fire suppression position, election to become safety member; credit for service

Any member of a retirement system established under this chapter who is employed in a position, the principal duties of which consist of active law enforcement or active fire suppression as defined under Sections 31469.3, 31470.2 and 31470.4, and who, prior to 1955, had the right to elect to become a safety member of such system shall again have the right to elect to become a safety member. Notice of such election shall be given in writing to the board of retirement administering the system.

The member's status as a safety member shall be effective on the first day of the second month following that in which the notice of election is received by the board of retirement.

Such a member may elect to receive credit for service rendered as a member of such system, as if he had been a safety member commencing in 1955. Notice of such election shall be given in writing to the board of retirement no less than 30 days prior to the member's retirement. The member shall receive credit for such service, as a safety member, if he contributes the difference between the member contributions actually made for that period of service and the contributions that he would have been required to make if he had been a safety member during that period. The member shall also contribute interest on the difference at the rates at which interest was credited on member contributions for each year of the period for which credit is sought.

An election under this section shall be irrevocable, and the additional contribution payments hereunder required, if not completed as specified, shall be forfeited to the retirement fund, and a forfeiting member shall then receive only general membership benefits. Additional contributions shall be made by lump sum payment or in such monthly payroll deduction amounts as determined by the board, but must be made prior to the member's retirement.

(Amended by Stats. 1969, Ch. 1247, Sec. 2)

Article 5

Financial Provisions

(Article 5 added by Stats. 1947, Ch. 424, Sec. 1)

§31580. Annual appropriation for administrative expenses

The board of supervisors shall appropriate annually from the proper county funds the amount necessary to defray the entire expense of administration of the retirement system based upon budget estimates prepared by the treasurer.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31580.1. Contribution from districts; costs of administering retirement system; penalty assessments for delinquencies

The board may include each year in the contribution required of a district a reasonable amount, which may differ from district to district, to cover the costs of administering its retirement system as such costs affect the active and retired employees of that district. The board may also assess a district a reasonable amount to cover costs incurred because of the district's failure to submit reports and forward contributions on a timely basis.

(Added by Stats. 1972, Ch. 545, Sec. 1)

§31580.2. Annual budget; expenses of administration; charges against earnings of fund

(a) In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1, 31522.5, or 31522.7, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year may not exceed the greater of either of the following:

(1) Twenty-one hundredths of 1 percent of the accrued actuarial liability of the retirement system.

(2) Two million dollars (\$2,000,000), as adjusted annually by the amount of the annual cost-of-living adjustment computed in accordance with Article 16.5 (commencing with Section 31870).

(b) Expenditures for computer software, computer hardware, and computer technology consulting services in support of these computer products shall not be considered a cost of administration of the retirement system for purposes of this section.

(Amended by Stats. 1990, Ch. 419, Sec. 5, Effective July 26, 1990, as an urgency statute)

(Amended by Stats. 2002, Ch. 74 (A.B. 1992), Sec. 4, Effective June 27, 2002, as an urgency statute)

(Amended by Stats. 2007, Ch. 327 (A.B. 1124), Sec. 2)

(Amended by Stats. 2010, Ch. 663 (AB 609), Sec. 1)

§31580.3. (Repealed January 1, 2013) Expenditures for software, hardware, and computer technology

(Added by Stats. 2003, Ch. 95 (A.B. 374), Sec. 1, Repealed by its own terms January 1, 2007)

(Added by Stats. 2007, Ch. 327 (A.B. 1124), Sec. 3)

(Repealed by Stats. 2010, Ch. 663 (AB 609), Sec. 2)

§31581. County contribution; rate

After the date a system becomes operative the board of supervisors shall, in the preparation and adoption of the county budget, add to the appropriation for salaries and

wages and include therein an appropriation determined pursuant to Sections 31453, 31453.5 and 31454. Until such determination the additional appropriations shall equal 23.77 percent of the total compensation provided for all safety members covered by Article 7.5 (commencing with Section 31662) and 8.85 percent of the total compensation provided for all other employees who are members of the retirement association.

(Amended by Stats. 1971, Ch. 224, Sec. 2, Effective June 28, 1971)

§31581.1. Election to pay up to one-half of contributions normally required of members; resolution by board of supervisors

The board of supervisors may elect to pay up to one-half of the contributions normally required of members for any period of time designated in the resolution providing for such payment. The payments shall not become part of the accumulated contributions of the member. Such payments may be made with respect to employees in one or more bargaining units irrespective of whether they are made with respect to other employees.

(Added by Stats. 1976, Ch. 1420, Sec. 2)

§31581.2. Agreement to pay any portion of contributions normally required of members; resolution not to create vested rights

The board of supervisors or the governing body of the district may agree to pay any portion of the contributions required to be paid by a member. All payments shall be in lieu of wages and shall be reported simply as normal contributions and shall be credited to member accounts.

The enactment of a resolution pursuant to this section shall not create vested rights in any member. The board of supervisors or the governing body of the district may amend or repeal the resolution at any time, subject to the provisions of Sections 3504 and 3505, or any similar rule or regulation of the county or district.

(Amended by Stats. 1989, Ch. 202, Sec. 1)

(Amended by Stats. 1997, Ch. 223, (A.B. 1598), Sec. 1)

§31582. Transfer from appropriation to retirement fund; amount; advance payment

(a) The county auditor shall certify to the board at the end of each month or at the end of each pay period the compensation earnable, as defined in Section 31461, paid to all safety members of the retirement association covered by Article 7.5 (commencing with Section 31662) and the compensation earnable, as defined in Section 31461, paid to all other members of the retirement association, and the auditor shall thereupon transfer from the appropriation to the retirement fund the percentage of this amount determined pursuant to Sections 31453, 31453.5, and 31454. Until that determination, the amount of the transfer shall be 23.77 percent of the compensation earnable, as defined in Section 31461, paid to all safety members covered by Article 7.5 (commencing with Section 31662) and 8.85 percent of the compensation earnable, as defined in Section 31461, paid to all other members.

(b) The board of supervisors may authorize the county auditor to make an advance payment of all or part of the county's estimated annual contribution to the retirement fund, provided that the payment is made within 30 days after the commencement of the county's fiscal year. If the advance is only a partial payment of the county's estimated annual contribution, transfers from the appropriation to the retirement fund shall be made at the end of each month or at the end of each pay period until the total amount estimated for the year is contributed. This amount shall be adjusted at the end of the fiscal year to reflect the actual contribution required for that year.

(c) (1) A district subject to Section 31585 may also authorize an advance payment of all or part of the district's estimated annual contribution to the retirement fund, provided that

the payment is made within 30 days after the commencement of the district's fiscal year. If the advance is only a partial payment of the district's estimated annual contribution, payments to the retirement fund shall be made at the end of each month or at the end of each pay period until the total amount estimated for the year is contributed. This amount shall be adjusted at the end of the fiscal year to reflect the actual contribution required for that year.

(2) This subdivision shall only apply to a district that is part of a retirement system in a county of the seventh class, as described in Section 28020.

(Amended by Stats. 1979, Ch. 95, Sec. 2)

(Amended by Stats. 2000, Ch. 203, (A.B. 2841), Sec. 1)

(Amended by Stats. 2010, Ch. 158 (SB 1479), Sec. 2)

§31582.1. Certification requirements of section 31582; provisions to forego

In any county in which the board of retirement so provides, the county auditor shall not be required to make the certifications required by Section 31582.

(Added by Stats. 1974, Ch. 1317, Sec. 1)

§31584. Failure of board to make appropriations or transfers

The board of supervisors shall make the appropriations, and if it fails or neglects to make the appropriations, the county auditor shall transfer from any money available in any fund in the county treasury the sums specified by this chapter and this transfer shall have the same force and effect as it would have had if the required appropriation had been made by the board of supervisors.

(Amended by Stats. 1973, Ch. 517, Sec. 1)

§31585. Contributions by districts

When any district becomes a part of the retirement system, the same appropriations and transfers of funds shall be made as those required of the county in this article, and such charges are legal charges against the funds of the district.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31585.1. Election of employee paid from county school service fund to remain member of county system

When an employee paid from the county school service fund elects to remain a member of this retirement system as authorized by Section 1313 of the Education Code, the same appropriations, transfers, and disposition of funds shall be made as those required of the county by this article, and those charges are legal charges against the funds of the county school service fund.

(Added by Stats. 1965, Ch. 717, Sec. 7, Effective June 18, 1965)

(Amended by Stats. 2006, Ch. 538 (S.B. 1852), Sec. 307)

§31585.2. Appropriations and transfers of funds made pursuant to Section 31585 in Orange county; legal charges against district funds; expenses of administration (Orange)

On and after the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, the district's appropriations and transfers of funds made pursuant to Section 31585 shall be legal charges against the funds of the district and shall be part of the expense of administration of the retirement system pursuant to Section 31580.2.

(Added by Stats. 2002, Ch. 74 (A.B. 1992), Sec. 5, Effective June 27, 2002, as an urgency statute)

§31586. Payments into fund as obligations of county or district

All payments of the county or of any district into the retirement fund, whether made pursuant to this article or made pursuant to law, are obligations of the county or district.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31587. Application of contributions

The board shall apply the contributions of the county or district to its obligations under the system in the order and amounts as follows:

First, in an amount equal during each fiscal year to the liability accruing to the county or district because of service rendered during such year and on account of service and disability pensions, in an amount determined by the actuarial valuation as interpreted by the actuary.

Second, in an amount equal during each fiscal year to the payments made from contributions by the county or district during the year for death benefits.

Third, the balance of such contributions on the liabilities accrued on account of prior service benefits.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31588. "Employees retirement fund"

A trust fund account to be designated as "employees retirement fund" shall be opened upon the books of the retirement board, or treasurer and auditor if authorized by the board, of any county adopting this retirement system.

The "employees retirement fund" shall be a trust fund created or continued and administered in accordance with this chapter, solely for the benefit of the members and retired members of the system and their survivors and beneficiaries.

Nothing in this section shall be construed to prohibit the retirement board paying administrative costs, already authorized or to be authorized, or to prohibit the transfer of surplus funds to county advance reserves.

(Amended by Stats. 1979, Ch. 427, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 4.5)

§31588.1. Deferred yield adjustment account

There is hereby established in the County Employees' Retirement System a deferred yield adjustment account which shall be increased by the sale or disposition of any debt securities at less than book value and shall be decreased by the sale or disposition of debt securities at more than book value. At the end of each year, a portion of the balance of this account shall be offset against the investment income for that year. The annual portion of the balance to be offset shall be proportional to the reciprocal of the average remaining life of the bonds sold. The amount of this account shall be included in any accounting or actuarial computations or listing of assets. In any year in which the gains on the sales of debt securities exceed the discounts realized on the sales of such securities, the excess shall be used to reduce the balance of the account.

This section shall not be operative in any county until such time as the board shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1974, Ch. 1366, Sec. 1)

§31588.2. Expending of funds; limitation to administration of system, investments, benefits to members

Notwithstanding any other provision of law, no funds in the retirement fund shall be

expended for any purpose other than the expense of administration of the system, investments for the benefit of the system, and the provision of benefits to the members and retired members of the system and their survivors and beneficiaries.

(Added by Stats. 1983, Ch. 923, Sec. 3)

§31589. Accounting as to transfers or payments to system

All transfers or payments to the retirement system and all withdrawals and other cash transactions, shall be accounted upon the books of the retirement board, or treasurer and auditor, if authorized by the board, in and out of the retirement fund, in the same manner as county transactions.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 5)

§31589.1. Trade of bonds for similar bonds

There is hereby established for accounting purposes in the County Employees Retirement Law of 1937 the following procedure for treating a trade of bonds for similar bonds. Any loss or gain attributable to a trade of a like bond in the portfolio of any retirement system adopted pursuant to this chapter may be amortized over the life of the bond traded out by adding to or subtracting from the discount or premium attributable to the bond traded in.

Like bonds for purposes of this section are considered to be bonds which will mature within seven years of the life of the bond traded out. Bonds to be traded must be of the first four grades. The fact that one bond may be a debenture and another a mortgage bond, or that the bonds may have different rates of return, shall not keep them from being like bonds.

This section shall not be operative in any county until such time as the board shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1974, Ch. 1366, Sec. 2)

§31590. Warrants, checks, and electronic fund transfers; signature and authorization; validity; direct deposit of electronic fund transfers; authorization of benefit payments issuance by banks

(a) All warrants, checks, and electronic fund transfers drawn on the retirement fund shall be signed or authorized by at least two board officers or employees, designated by the board or by the treasurer if designated by the board. If the treasurer is designated by the board, the board shall also designate the auditor to sign or authorize warrants, checks, and electronic fund transfers. The authorization may be by blanket authorization of all warrants, checks, or electronic fund transfers appearing on a list or register, or may be by a standing order to draw warrants, checks, or electronic fund transfers, which shall be good until revoked. If the treasurer and auditor are designated by the board, a warrant, check, or electronic fund transfer is not valid until it is signed or authorized, numbered, and recorded by the county auditor, except as provided in subdivision (c).

(b) Any person entitled to the receipt of benefits may authorize the payment of the benefits to be directly deposited by electronic fund transfer into the person's account at the financial institution of the person's choice under a program for direct deposit by electronic transfer established by the board or treasurer if authorized by the board. The direct deposit shall discharge the system's obligation in respect to that payment.

(c) The board may, or, if authorized by the board, the treasurer shall, authorize a trust company or trust department of any state or national bank authorized to conduct the business of a trust company in this state or the Federal Reserve Bank of San Francisco or any branch

thereof within this state, to process and issue payments by check or electronic fund transfer.

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 6)

(Amended by Stats. 1996, Ch. 493 (S.B. 792), Sec. 5)

§31591. Interest credits; rate; termination of interest on cessation of membership

(a) Regular interest shall be credited semiannually on June 30th and December 31st to all contributions in the retirement fund which have been on deposit for six months immediately prior to that date. Interest at the rate of 2 1/2 percent per annum, until otherwise determined by the board, compounded semiannually, shall be used in the calculation of benefits under any mortality table adopted by the board of supervisors.

(b) No interest shall be credited to a member's account after the membership of the member in the retirement association has ceased, except under the following circumstances:

(1) The former member has left his or her accumulated contributions in the retirement fund and has either elected in writing a deferred retirement allowance, or is eligible to so elect under Section 31700 but has failed to do so.

(2) The surviving spouse of a deceased member or the legally appointed guardian of the member's unmarried children under age 18 has elected to leave a death benefit on deposit as provided for in Section 31781.2.

(3) The former member, regardless of service, has left his or her accumulated contributions in the retirement fund and has not terminated employment.

(Amended by Stats. 1995, Ch. 457 (A.B. 847), Sec. 1)

(Amended by Stats. 1997, Ch. 43 (S.B. 419), Sec. 1)

§31592. Excess interest as reserve against contingencies

Earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments and other contingencies, except as provided in Sections 31529.5 and 31592.2

(Amended by Stats. 1977, Ch. 202, Sec. 2)

§31592.2. Excess interest; disposition

In any county, earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments, and other contingencies, except that, when such surplus exceeds 1 percent of the total assets of the retirement system, the board may transfer all, or any part, of such surplus in excess of 1 percent of the said total assets into county advance reserves for the sole purpose of payment of the cost of the benefits described in this chapter.

Where the board of supervisors has provided for the payment of all, or a portion, of the premium, dues, or other charges for health benefits, Medicare, or the payment of accrued sick leave at retirement to or for all, or a portion, of officers, employees, and retired employees and their dependents, from the county general fund or other sources, the board of retirement may authorize the payment of all, or a portion, of payments of the benefits described in this paragraph from the county advance reserves.

(Amended by Stats. 1980, Ch. 1116, Sec. 1, Effective September 26, 1980)

§31592.3. Excess earnings; reserve; transfer to increase retirement allowance

In any county, earnings of the retirement fund, in excess of the total interest credited to contributions and reserves shall remain in the fund as a reserve against deficiencies in interest

earnings in other years, losses on investments, and other contingencies, except that when the total amount in the reserve exceeds 1 percent of the total assets of the retirement system, the board may transfer all or any part of such reserve in excess of 1 percent of the total assets into a special fund which shall be used for the sole purpose of providing an increase in monthly retirement allowance pursuant to Section 31681.7 or Section 31739.4. In the event the amount credited to the special fund is not sufficient to pay the entire amount of the increase provided for by Section 31681.7 or Section 31739.4 then the amount of the increase shall be reduced in proportion to the amount of the balance on hand in the special fund at the close of the fiscal year preceding the fiscal year during which such increase is operative.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make the provisions of this section applicable in such county. The board of supervisors may in such ordinance provide that the increase in monthly retirement allowance provided for by Section 31681.7 or 31739.4 shall be effective only subject to the provisions of this section.

(Amended by Stats. 1968, Ch. 94, Sec. 1, Effective May 10, 1968)

§31592.4. Excess earnings; treatment as appropriations, transfers and contributions by county and districts; definition; operation of section; election by county board of supervisors; validity of agreements to provide health insurance programs unaffected; payments in lieu of those made pursuant to Section 31592.2

(a) Notwithstanding Article 5.5 (commencing with Section 31610) and Article 8.6 (commencing with Section 31694), the amount of excess earnings available at the end of a fiscal year of the retirement fund, shall, subject to the limitations in this section, be treated in the immediately succeeding fiscal year, for all purposes under this chapter, as appropriations, transfers, and contributions made to the retirement fund by the county and districts. That treatment shall be solely for the purposes of meeting the applicable requirements of Section 401 of the Internal Revenue Code of the United States. That treatment shall also occur only to the extent that, in the immediately succeeding fiscal year, the county and districts pay for, or otherwise make reimbursement of, health benefits for members heretofore or hereafter retired and their dependents. For purposes of this section, "excess earnings" means earnings of the retirement fund at the end of any fiscal year that exceed the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. The board of supervisors and the board of retirement may take any actions otherwise authorized by law, necessary to ensure that the program provided by this section complies with all applicable federal and state income tax laws.

(b) This section shall not be operative in any county until the board of supervisors and the board of retirement of the county, by resolution adopted by a majority vote of each board, make this section operative in the county.

(c) Nothing in this section is intended to, or should be construed to, affect the validity of any agreement entered into by a county and a retirement association whereby a county has agreed to provide and fund a health insurance program for retired employees and their dependents for hospital services, medical services, dental services, and optical services, prior to the effective date of this section.

(d) In any county in which this section becomes operative, the payments provided pursuant to this section shall be in lieu of any similar payments which could be made pursuant to Section 31592.2 and no payments shall be made pursuant to Section 31592.2 for all, or a portion, of the premiums, dues, or other charges for health benefits for retired employees and their dependents.

(Added by Stats. 1992, Ch. 733, Sec. 1, Effective January 1, 1993)

§31592.5. Notice to organization recognized by board as representing retired county or district employees of proposed changes to retirement benefits or use or uses of excess retirement system funds

The board shall provide to any organization that is recognized by the board as representing the retired employees of the county or district reasonable advance notice of any proposed changes to the retirement benefits offered by the system or the use or uses of excess funds of the retirement system. The organization shall have a reasonable opportunity to comment prior to any formal action by the board on the proposed changes.

(Added by Stats. 2003, Ch. 191 (S.B. 270), Sec. 1 as G.C. Section 31537.

Renumbered by Stats. 2004, Ch. 441 (A.B. 979), Sec. 2)

§31593. Audit and report

The retirement board shall conduct an audit of the retirement system at least once every 12 months and report upon its financial condition. The retirement board may retain the services of a certified public accountant to perform the annual audit. That audit shall be performed in accordance with generally accepted auditing standards. The cost of the audit shall be considered a cost of the administration of the retirement system. The audit report shall address the financial condition of the retirement system, internal accounting controls, and compliance with applicable laws and regulations. A copy of the audit report shall be filed with the board of supervisors.

Nothing in this section shall preclude the retirement board from selecting the county auditor to perform the annual audit, and if so done, the cost of that audit shall be considered a cost of the administration of the retirement system.

At the request of the county board of supervisors, the county auditor may audit the accounts of the retirement system. The expense of that audit shall not be a cost chargeable by the county to the retirement system.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Repealed and added by Stats. 1998, Ch. 109 (A.B. 1766), Sec. 5 and 6)

§31594. Investment of funds

It is the intent of the Legislature, consistent with the mandate of the voters in passing Proposition 21 at the June 5, 1984, Primary Election, to allow the board of any retirement system governed by this chapter to invest in any form or type of investment deemed prudent by the board pursuant to the requirements of Section 31595. It is also the intent of the Legislature to repeal, or amend as appropriate, certain statutory provisions, whether substantive or procedural in nature, that restrict the form, type, or amount of investments that would otherwise be considered prudent under the terms of that section. This will increase the flexibility and range of investment choice available to these retirement systems, while ensuring protection of the interests of their beneficiaries.

(Repealed and added by Stats. 1984, Ch. 1738, Sec. 5, Effective September 30, 1984)

§31595. Control of investments; authority to invest assets; discharge of duties

The board has exclusive control of the investment of the employees retirement fund. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system. Except as otherwise expressly restricted by the California Constitution and by law, the board may, in its discretion, invest, or delegate the authority to invest, the assets of the fund through the purchase, holding, or sale of any form or type of investment, financial instrument, or financial

transaction when prudent in the informed opinion of the board.

The board and its officers and employees shall discharge their duties with respect to the system:

(a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system.

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(c) Shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

(Repealed and Added by Stats. 1984, Ch. 1738, Sec. 7, Effective September 30, 1984)

§31595.1. County treasurer; control of retirement system funds

(a) The board may authorize the treasurer to control and safely keep some or all of the moneys of the retirement system. If authorized, the treasurer may invest and reinvest the moneys, and may from time to time sell any securities belonging to the system and may invest and reinvest the proceeds therefrom. An investment in or sale of securities shall not be made except upon the authorization of the board.

(b) The board, in lieu of acting pursuant to subdivision (a), may delegate to another entity some or all of the powers prescribed in that subdivision.

(Repealed and added by Stats. 1984, Ch. 1738, Sec. 9, Effective September 30, 1984)

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 7)

§31595.41. Validation of acts; exchange-traded call options

All acts made or done by the board or its officers and employees, on or after January 1, 1983, and until the effective date of this section, with respect to exchange-traded call options and related matters, which would have been valid if Section 31595.4, as amended by Section 1 of the act which enacts this section, had been in effect at the time the acts were made or done are hereby ratified, confirmed, and validated.

(Added by Stats. 1983, Ch. 130, Sec. 2)

§31595.9. Investments in repurchase agreements or reverse repurchase agreements

Notwithstanding the provisions of Section 31595, in addition to other investments authorized by this article, funds received by the county treasurer not required for current disbursements may be invested in repurchase agreements or reverse repurchase agreements of any securities authorized by this article.

For purposes of this section, "repurchase agreement" means a purchase of securities by the board pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount.

For purposes of this section, "reverse repurchase agreement" means a sale of securities by the board pursuant to an agreement by which the board will repurchase the securities on or before a specified date and for a specified amount.

(Added by Stats. 1983, Ch. 534, Sec. 2)

§31596. Sale of securities; treasurer's duties and liabilities; custodian of securities

(a) When securities belonging to or held for the retirement association are sold, the county treasurer shall deliver the securities to the purchaser upon receiving the proceeds, and may execute any and all documents necessary to transfer title. The duties imposed

upon the county treasurer by this article are a part of his or her official duties, for the faithful performance of which he or she is liable on his or her official bond.

(b) The board may, or if authorized by the board, the treasurer shall authorize a state or federally chartered depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or any trust company licensed under state or federal law to conduct the business of a trust company or any Federal Reserve Bank, to act as custodian of any securities owned by the retirement association. In that case, the duties imposed by subdivision (a) upon the county treasurer shall instead be performed by the board and shall be included in any agreement for custodial services. Any of these banks or trust companies may be authorized to collect the income from the securities and deposit the proceeds in an account established by the board for the retirement association.

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 8)

(Amended by Stats. 1999, Ch. 771 (A.B. 731), Sec.1)

§31596.1. Expenses of investing moneys

The expenses of investing its moneys shall be borne solely by the system.

The following types of expenses shall not be considered a cost of administration of the retirement system, but shall be considered as a reduction in earnings from those investments or a charge against the assets of the retirement system as determined by the board:

(a) The costs, as approved by the board, of actuarial valuations and services rendered pursuant to Section 31453.

(b) The compensation of any bank or trust company performing custodial services.

(c) When an investment is made in deeds of trust and mortgages, the fees stipulated in any agreement entered into with a bank or mortgage service company to service such deeds of trust and mortgages.

(d) Any fees stipulated in an agreement entered into with investment counsel for consulting or management services in connection with the administration of the board's investment program, including the system's participation in any form of investment pools managed by a third party or parties.

(e) The compensation to an attorney for services rendered pursuant to Section 31607 or legal representation rendered pursuant to Section 31529.1.

(Amended by Stats. 1992, Ch. 1047, Sec. 3, Effective January 1, 1993)

§31597. Annual financial statement

Before June 30th of each year the retirement board shall file in the office of the county auditor and with the board of supervisors a sworn statement that shall exhibit the financial condition of the retirement system at the close of the preceding December 31st and its financial transactions for the year ending on that day.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 9)

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 4)

§31597.1. Alternative financial statement; applicability

Before December 31 of each year, the retirement board shall file in the office of the county auditor and with the board of supervisors a sworn statement that shall exhibit the financial condition of the retirement system at the close of the preceding June 30th and its financial transactions for the fiscal year ending that day. This section is not operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes the provisions of this section applicable in the county. After the filing of the first fiscal year

accounting under this section, the provisions of Section 31597 do not apply in the county.

(Added by Stats. 1979, Ch. 122, Sec. 2)

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 10)

(Amended by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 5)

§31597.2. Alternative financial statement; filing

In those counties in which the retirement board has authorized the treasurer to control and hold the assets of the retirement system pursuant to subdivision (a) of Section 31595.1, the treasurer shall be responsible for filing the statement required by Section 31597 or Section 31597.1, as applicable.

(Added by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 11)

§31598. Preparation of annual statement

The annual statement shall be prepared in accordance with generally accepted accounting principles on the basis of pronouncements of the Government Accounting Standards Board or its successor organization.

(Repealed by Stats. 1996; added by Stats. 1996, Ch. 680 (S.B. 1877), Sec. 10 and 11, respectively)

§31599. Records of contributions

In addition to other records and accounts, the retirement board, or the treasurer if authorized by the board, shall keep records and accounts as are necessary to show at any time:

(a) The total accumulated contributions of members.

(b) The total accumulated contributions of retired members less the annuity payments made to the members.

(c) The accumulated contributions of the county or district held for the benefit of members on account of service rendered as members of the retirement system.

(d) All other accumulated contributions of the county or district, including the amounts available to meet the obligation of the county or district on account of benefits granted to retired employees and on account of prior service of members.

(Added by Stats. 1947, Ch. 424, Sec. 1)

(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 12)

§31600. Benefits payable monthly; exception

A pension, annuity, or retirement allowance is payable in equal monthly installments, but a smaller pro rata amount may be paid for part of a month when the pension, annuity, or retirement allowance begins after the first day of the month or ends before the last day of the month.

(Added by Stats. 1947, Ch. 424, Sec. 1)

§31601.1. Investments in realty; counties with board of investments

In counties having a board of investments pursuant to Section 31520.2, no investment shall be made in real property unless it is approved by six votes of the board or, where a county board of supervisors or a county board of education has a material interest in the property unless it is approved by nine votes of the board.

(Amended by Stats. 1984, Ch. 1738, Sec. 19, Effective September 30, 1984)

§31602. Home loan program; investment of funds

Notwithstanding any other provision of the law, the board of retirement, or, in counties that have established a board of investments, the board of investments, may establish a

program utilizing the retirement fund to assist system members and annuitants, through financing, to obtain homes in this state. The board shall adopt regulations governing the program which shall, among other things, provide:

(a) That home loans be made available to currently employed members and annuitants for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(b) That private lending institutions in this state shall originate and service its home loans pursuant to agreements entered into between those institutions and the board.

(c) That the recipients of the loans occupy the homes as their permanent residence in accordance with the rules and regulations established by the board.

(d) That its home loans shall be available only for the purchase or refinancing of homes in this state and that under no condition shall a member or annuitant have more than one outstanding loan.

(e) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board which shall provide a loan to value ratio of: (1) for the first loan, except for three-family dwellings and four-family dwellings, a maximum of 95 percent of the first loan; (2) for the first loan on three-family dwellings and four-family dwellings, a maximum of 90 percent of the first loan; and (3) for each additional loan, a maximum of 80 percent of each additional loan. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(f) That there may be prepayment penalties assessed on its loan in accordance with the rules and regulations established by the board.

(g) That the criteria and terms for its loans shall provide the greatest benefit to members and annuitants consistent with the financial integrity of the program and the sound investment of the retirement fund.

(h) Any other terms and conditions as the board shall deem appropriate.

(Amended by Stats. 1991, Ch. 1091, Sec. 58)

§31603. Loans

The board of retirement or the board of investments, as applicable, may obtain a loan and pledge a portion of the assets of the retirement fund as security for the repayment of the loan if the board finds all of the following:

(a) An emergency exists affecting the national banking system or financial markets.

(b) The emergency prevents the association from readily accessing its funds.

(c) The loan is necessary to promptly deliver benefits when due.

The assets of the retirement fund pledged as security for the loan shall be subject to execution and other processes of the court only in connection with a proceeding to enforce the loan. The costs associated with securing and repaying the loan, including interest, shall be a charge against investment earnings of the fund.

(Added by Stats. 2003, Ch. 520 (A.B. 1585), Sec. 6)

§31607. Employment of attorney

To assist in carrying out its investment powers and duties the board may employ an attorney in private practice.

(Amended by Stats. 1984, Ch. 1738, Sec. 26, Effective September 30, 1984)

Article 5.5

Alternative Financial Provisions

(Article 5.5 added by Stats, 1983, Ch. 886, Sec.4; Article applicable in counties adopting it as prescribed by Section 31610. Note: Prior to 1985, this article comprised Sections 31510 to 31510.9)

§31610. Adoption of article; operation of certain sections

This article shall not become operative in any county unless and until it is adopted by resolution of the county board of retirement and the county board of supervisors, whereupon, the following sections shall not be operative as to that county: Sections 31453, 31529.5, 31591, 31592, 31592.2, 31592.3, and 31871.

(Added by renumbering Section 31510 by Stats. 1984, Ch. 193, Sec. 54)

§31611. Actuarial valuation; recommendation in change of rate of interest; cost

An actuarial valuation shall be made within one year after the date on which any system established under this chapter becomes effective, and thereafter at intervals not to exceed three years. The valuation shall be conducted under the supervision of an enrolled actuary and shall cover the mortality, service, and compensation experience of the members and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund.

Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 60 days prior to the beginning of the succeeding fiscal year, recommend to the board of supervisors such changes in the rates of interest, in the rates of contributions of members, in county and district appropriations as are necessary, and appropriate mortality tables. In making recommendations to the board of supervisors, the board shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

No adjustment shall be included in the new rates for time prior to the effective date of the revision. The cost of actuarial valuations and investigations may, in the sound discretion of the board, be charged against the earnings of the retirement fund.

(Added by renumbering Section 31510.1 by Stats. 1984, Ch. 193, Sec. 55)

§31612. "Actuarial rate" defined

"Actuarial rate" means the interest assumption rate established by the most recent actuarial survey recommended by the board of retirement and adopted by the board of supervisors.

(Added by renumbering Sections 31510.2 by Stats. 1984, Ch. 193, Sec. 56)

§31613. "Net earnings" defined

"Net earnings" means the earnings of the retirement fund after accounting for any direct investment losses recognized during the year, less the amounts taken from the earnings as specified in subdivisions (a) and (b):

(a) The amounts specified in Sections 31580.2, 31580.3, if applicable, subdivisions (b) and (d) of Section 31596, if applicable and Section 31611 and 31614.

(b) Any reductions from earnings required by Sections 31588.1 and 31589.1, if applicable. Part or all of any amounts required by Sections 31588.1 and 31589.1 may be deducted, at the discretion of the board of retirement, from the Contingency Reserve Account as described in Section 31616.

(Added by renumbering Section 31510.3 by Stats. 1984, Ch. 193, Sec. 57)

§31614. Employment of attorney; compensation; adoption by county

Notwithstanding Section 31529, the board may contract for the legal services of an attorney in private practice when the board determines, after consultation with the county counsel, that the county counsel cannot provide the board with legal services due to a conflict of interest or other compelling reason. The compensation of the attorney shall be charged against the earnings of the retirement fund or paid from the county general funds.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by renumbering Section 31510.4 by Stats. 1984, Ch. 193, Sec. 58)

§31615. Interest; credit to contributions, reserves and accounts; calculation of benefits

Regular interest at the actuarial rate, or at the highest rate possible if net earnings, as defined in Section 31613 are not sufficient to credit the full actuarial rate, shall be credited semiannually on June 30 and December 31 to all contributions, reserves, and accounts in the retirement fund, except the Contingency Reserve Account, which have been on deposit for six months immediately prior to those dates.

Interest at the actuarial rate, compounded semiannually, shall be used in the calculation of benefits under any mortality table adopted by the board of supervisors. No interest shall be credited to a member's account after the termination of the member's county service, unless the member has elected, in writing, to leave his or her accumulated contributions in the retirement fund and be granted a deferred retirement allowance, or the surviving spouse of a deceased member or the legally appointed guardian of the member's unmarried children under age 18 has elected to leave a death benefit on deposit as provided for in Section 31781.2.

(Added by renumbering Section 31510.5 by Stats. 1984, Ch. 193, Sec. 59)

§31616. Contingency Reserve Account; placement of retirement fund earnings; balance; use

After the semiannual application of Section 31615, earnings of the retirement fund in excess of the total interest credited to contributions and reserves shall remain in the fund as a reserve against deficiencies in interest earnings, losses on investments, or payments made pursuant to Section 31588.1 or 31589.1, if applicable.

These funds shall be placed in an account known hereafter as the Contingency Reserve Account. The size of this account shall be determined semiannually by the board but shall not exceed 3 percent of the total assets of the retirement fund.

If, at the end of any semiannual period, the balance of the Contingency Reserve Account falls below 1 percent of system assets, the board shall, by the end of the subsequent semiannual period, provide funds from earnings of fund assets from the subsequent semiannual period, to bring the level of the Contingency Reserve Account to at least 1 percent of system assets.

No funds in the Contingency Reserve Account shall be available for the payment of benefits.

Net earnings remaining after the application of this section shall be applied as provided in Sections 31617, 31618, and 31619.

(Added by renumbering Section 31510.6 by Stats. 1984, Ch. 193, Sec. 60)

§31617. Cost-of-living contributions

In each county having an agreement prior to January 1, 1983, that a fixed part of the required Article 16.5 (commencing with Section 31870) cost-of-living contributions shall come from excess interest earnings on the fund, after the semiannual application of sections 31615 and 31616, the balance of net earnings, as defined in Section 31613, shall be used to pay those

contributions.

(Added by renumbering Section 31510.7 by Stats. 1984, Ch. 193, Sec. 61)

§31618. Supplemental Retiree Benefit Reserve; establishment; balance; transfers; distribution

The board shall establish a Supplemental Retiree Benefit Reserve in the retirement system consisting of any amount previously in the reserve against deficiencies, which on the date of adoption of this article, exceeds 3 percent of the assets of the retirement fund, or any lesser amount, as determined by the board. In no event, however, shall the balance of the contingency Reserve Account be reduced below 1 percent of system assets for this purpose. The Supplemental Retiree Benefit Reserve shall be used only for the benefit of retired members and beneficiaries.

Commencing on the date of adoption of this article, there shall be a semiannual transfer into this reserve of 50 percent of the balance of net earnings, as defined in Section 31613, after crediting all accounts pursuant to Section 31615, rebuilding the Contingency Reserve Account pursuant to Section 31616 and paying the part of the cost-of-living contributions pursuant to Section 31617, if applicable.

The distribution of the Supplemental Retiree Benefits Reserve shall be determined by the board.

(Added by renumbering Section 31510.8 by Stats. 1984, Ch. 193, Sec. 62)

§31618.5. Transfer to fund administrative costs of programs reimbursed by Supplemental Retiree Benefits Reserves; application (Alameda)

(a) The board shall annually transfer, from the administrative budget established pursuant to Article 5 (commencing with Section 31580), an amount sufficient to fund the administrative costs of the programs reimbursed by the Supplemental Retiree Benefits Reserve.

(b) This section shall only apply to a county of the fourth class as described in Section 28020.

(Added by Stats. 2010, Ch. 158 (SB 1479), Sec. 3)

§31619. Credit of remaining net earnings

Remaining net earnings, after the sequential application of Sections 31615 and 31616 and Section 31617, if applicable, and Section 31618 shall be credited to all contributions, reserves, and accounts in the retirement fund, except the Contingency Reserve Account, in the manner prescribed in Section 31615, except that no further interest shall be credited to the Supplemental Retiree Benefit Reserve, established pursuant to Section 31618.

(Added by renumbering Section 31510.9 by Stats. 1984, Ch. 193, Sec. 63)