2013 Edition
County Employees Retirement Law

The 2013 edition of the County Employees Retirement Law of 1937 contains all additions and amendments made by the legislature in 2012.

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

This law book has been prepared by the Los Angeles County Employees Retirement Association. Although every effort has been made to produce the information correctly, LACERA makes no claims as to the accuracy of the information. This publication was not prepared by persons licensed to practice law in California. It is not a substitute for the advice of an attorney or the official publication of the County Employees Retirement Law of 1937. As a courtesy, it is shared with counties governed by the County Employees Retirement Law of 1937. Some provisions in the 1937 Act do not apply in every county; check with your county retirement system to see which provisions are applicable.

If you would like to report any errors in this publication, contact:

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The County Employees Retirement Law of 1937 can be found on lacera.com.
In 2012, the County Employees Retirement Law of 1937 was printed in its entirety, with updates through 2011 (effective January 1, 2012, unless otherwise indicated) and other corrections to the text. Legislation enacted in 2012 added or amended the following sections of the County Employees Retirement Law of 1937. These additions and amendments became effective January 1, 2013, unless otherwise indicated.

The code sections that were added or amended in 2012, and any sections including corrected text, are shown with a double vertical line on the outside edge of the page. Single lines are used to identify last year’s updates.

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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 2012

Effective January 1, 2013
2013 Edition
County Employees Retirement Law Legislative Updates

Legislation enacted in 2012 added or amended the following sections of the County Employees Retirement Law of 1937. These additions and amendments became effective January 1, 2013, unless otherwise indicated.

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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:

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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
(a) The board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter, authorizing the treasurer or other entity authorized by the board to deduct a specified amount from the retirement allowance or benefit payable to any retired member or beneficiary of a retired member for any of the following purposes:
   (1) Paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer.
   (2) Paying premiums for a prepaid group medical or hospital service plan.
   (3) Paying premiums for a vision care program or dental plan, approved by the board, for the benefit of the retired member or his or her dependents.
   (4) Paying premiums on national service life insurance or United States government converted insurance.
   (5) Payment for the purchase of shares in or the payment of money to any regularly chartered credit union.
   (6) Payment to a charitable organization or a federally chartered veterans’
organization that is approved by the board.

(7) Payments to a recognized retiree organization.
(8) Payment for the purchase of United States savings bonds.
(9) The payment of personal income taxes to the government of the United States or the State of California.
(10) Payment for any retiree benefit programs available through the recognized retiree organization. The board may require that this payment be to a single party designated by the recognized retiree organization, either to itself or to a third-party administrator.

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

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

(Amended by Stats. 1989, Ch. 121, Sec. 1)
(Amended by Stats. 1995, Ch. 584 (A.B. 1021), Sec. 1)
(Amended by Stats. 2007, Ch. 331 (A.B. 1288), Sec. 1)
(Amended by Stats. 2012, Ch. 178 (SB 1382), 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
§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,
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 byStats. 1996, Ch. 493 (S.B. 792), Sec. 2)
(Amended byStats. 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 byStats. 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, 31595.5, 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 byStats. 1984, Ch. 1738, Sec. 3, Effective September 30, 1984)
(Amended byStats. 2007, Ch. 315 (A.B. 246), Sec. 1)
(Amended byStats. 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, 31595.5, 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, 31523, 31524, 31525, 31528, 31529, 31529.5, 31535.1, 31580.2, 31614, 31680, and 31680.1, apply to both the board of retirement and board of investments, and “board” means either or both the board of retirement and board of investments.
(4) Subdivision (a) of Section 31526 and subdivisions (a) and (b) of the second paragraph of Section 31595 apply to both the board of retirement and board of investments, and “board” means either or both the board of retirement and board of investments.

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

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

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

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

§31460. “Compensation” defined

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

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

§31461. “Compensation earnable” defined

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

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

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

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

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

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

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

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

4. Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period.
period, regardless of when reported or paid.
  (c) The terms of subdivision (b) are intended to be consistent with and not in conflict with the holdings in Salus v. San Diego County Employees Retirement Association (2004) 117 Cal.App.4th 734 and In re Retirement Cases (2003) 110 Cal.App.4th 426.

(Amended by Stats. 1993, Ch. 396, Sec. 3)
(Amended by Stats. 1995, Ch. 558 (S.B. 226), Sec. 1)
(Amended by Stats. 2012, Ch. 297 (AB 197), Sec. 2)

§31461. 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.

Text continues on page 9
§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)
§31471.5. "Recognized retiree organization" defined

"Recognized retiree organization" means an organization in which a majority of the members of the organization are retired members of the system and which the board, upon request, has approved recognition.
(Added by Stats. 2012, Ch. 178 (SB 1382), Sec. 2)

§31472. “Regular interest” defined

“Regular interest” means interest at 2 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)

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§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
§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 recognized retiree organization, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member. Thereafter, the alternate retired member shall be elected separately by the retired members of the association in the same manner and at the same time as the eighth member is elected.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member’s term of office.

(c) Except as otherwise provided in this section, the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member.

(d) The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.

(e) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Sections 31521 and 31521.1, whether or not the eighth member is in attendance at those meetings.

(f) (1) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the eighth member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in Section 31520.1.

(Amended by Stats. 2011, Ch. 124 (SB 203), Sec. 5)

(Amended by Stats. 2012, Ch. 178 (SB 1382), Sec. 3)
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)

§31522.8. Education of board members; policy requirements

A board of retirement and a board of investments subject to this article shall adopt a policy for providing education to board members. The policy, at a minimum, shall do the following:

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

1. Fiduciary responsibilities.
2. Ethics.
3. Pension fund investments and investment program management.
4. Actuarial matters.
5. Pension funding.
7. Disability evaluation.
8. Fair hearings.
10. New board member orientation.

(b) Establish a means for determining the programs, training, and educational sessions that qualify as board member education. Educational seminars sponsored by the state or national public pension fund organizations and seminars sponsored by accredited academic institutions shall be deemed to meet board member education requirements.

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

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

(Added by Stats. 2012, Ch. 15 (AB 1519), Sec. 1)

§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 that he or she has withdrawn, plus regular interest thereon from the date of return to service.

(c) For a period of time longer than one year during which a member brought within the field of membership may pay into the retirement fund the amount equal to the contributions he or she would have made plus interest, if he or she had been a member from the date of its organization, or from the date of his or her entrance into service, whichever is later.

(d) For a withdrawal charge against a member who withdraws his or her accumulated contributions. The withdrawal charge shall not exceed the interest credited to the member subsequent to the effective date of the regulation.

(e) For the exemption or exclusion from membership as a peace officer member or as a safety member or from membership altogether, in the discretion of the board, of persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour.

(f) For the periodic physical examination, at county expense, of safety members.

(g) The amount of additional deductions from the salaries or wages of members pursuant to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861). Such a provision may be adopted in anticipation of, and prior to Article 15.5 (commencing with Section 31841) or Article 16 (commencing with Section 31861) becoming operative in the particular county.

(h) The day upon which each person becomes a member of the association if it is to be other than the first day of the calendar month after his or her entrance into service. However, that day shall be no later than 12 weeks after his or her entrance into service, or the day upon which the member terminates service credited by the association, and that the day shall be no earlier than 12 weeks prior to the member’s termination from employment.

(i) Notwithstanding any other law, for the use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature, if the document and electronic signature are submitted using technology the board deems sufficient to ensure its integrity, security, and authenticity. A document submitted pursuant to the regulation shall be given the same force as a signed, valid original document.

(Amended by Stats. 1967, Ch. 492, Sec. 1)
(Amended by Stats. 2010, Ch. 158 (SB 1479), Sec. 1)
(Amended by Stats. 2012, Ch. 59 (AB 2664), Sec. 1)

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caused to be made, by the member for his or her own benefit.

(2) The member caused his or her final compensation to be improperly increased or otherwise overstated at the time of retirement and the system applied that overstated amount as the basis for calculating the member’s monthly retirement allowance or other benefits under this chapter.

(b) The retirement allowance or other benefits under this chapter with respect to a retired member described in subdivision (a) shall be adjusted prospectively to the amount that would have been payable if the overstatement of the member’s final compensation had not occurred.

(c) Adjustment of the member’s retirement allowance or other benefits may also be implemented retroactively and include the collection or return of the overpayment of benefits. The board of retirement may direct staff to correct the overpayment of benefits by offsetting the amount to be recovered against future benefits. Adjustments to correct the overpayment of benefits may also be made by adjusting the allowance so that the retired member or the retired member and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies any party may have at law or in equity. Nothing in this section shall preclude any party from instituting an action for declaratory or other relief in lieu of proceeding under this section.

(e) The period of limitation of actions under this section shall be 10 years and that period shall commence either from the date of payment or upon discovery of the facts described in subdivision (a), whichever date is later. The board shall determine the applicability of the period of limitation in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error.

(Added by Stats. 2004, Ch. 466 (SB 1206), Sec. 1)

§31540. Obligations of retirement system to members, of county or district to retirement system, of members to retirement system; payments for adjustment of errors or omissions (Los Angeles)

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

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, the period of limitation of actions shall be three years, and shall be applied as follows:

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

(2) In cases in which the retirement system owes money to a member or beneficiary, the period of limitation shall not apply.

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

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

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

(f) This section shall apply only to a county of the first class as described in Section 28020.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 2)(Applicable to Los Angeles County only)

§31541. Corrections of errors or omissions (Los Angeles)

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

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

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

(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part. Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an “error or omission” correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of any active or retired member, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 31540.

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

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

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

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

(3) That the purposes of this chapter will not be effectuated if the correction is performed in a retroactive manner.
(f) This section shall apply only to a county of the first class as described in Section 28020.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 3)(Applicable to Los Angeles County only)

§31542. Compensation paid to enhance member's retirement benefit; procedure for assessment

(a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member’s retirement benefit. If the board determines that compensation was paid to enhance a member’s benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member’s retirement benefits.

(b) Upon a final determination by the board that compensation was paid to enhance a member’s retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board’s action by filing a petition for writ of mandate within 30 days of the mailing of that notice.

(c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member’s retirement benefit.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 29)

§31542.5. Pay period for compensation reported to board; failure of county or district to report compensation

(a) When a county or district reports compensation to the board, it shall identify the pay period in which the compensation was earned regardless of when it was reported or paid. Compensation shall be reported in accordance with Section 31461 and shall not exceed compensation earnable, as defined in Section 31461.

(b) The board may assess a county or district a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that a county or district knowingly failed to comply with subdivision (a). A county or district shall be found to have knowingly failed to comply with subdivision

(a) if the board determines that either of the following applies:
(1) The county or district knew or should have known that the compensation reported was not compensation earnable, as defined in Section 31461.
(2) The county or district failed to identify the pay period in which compensation earnable was earned, as required by this section.
(c) A county or district shall not pass on to an employee any costs assessed pursuant to subdivision (b).

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 30)

§31543. Audit of county or district by board

The board may audit a county or district to determine the correctness of retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the system. During an audit, the board may require a county or district to provide information, or make available for examination or copying at a specified time and place, books, papers, data, or records, including, but not limited to, personnel and payroll records, as deemed necessary by the board.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 31)

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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 recognized retiree organization reasonable advance notice of any proposed changes to the retirement benefits offered by the system or the use or uses of excess funds of the retirement system. The organization shall have a reasonable opportunity to comment prior to any formal action by the board on the proposed changes.
(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
(Amended by Stats. 2012, Ch. 178 (SB 1382), Sec. 4)

§31592.6. Distribution of communication materials regarding retiree benefit programs to members; assistance of board
In order for a recognized retiree organization to fulfill its obligations to the retired members of the system and to communicate with them, upon the organization’s request the board shall cooperate with and assist the organization in distributing communications regarding membership in and retiree benefit programs available through the organization to all or a portion of those retired members. The content of those communications shall be wholly the responsibility of the recognized retiree organization, and the board shall not have any liability for the content of those communications. Cooperation and assistance in distribution may consist of combined or separate mailings. The board may charge a reasonable fee for those mailings, which may not exceed the actual costs to the system, including staff time for preparation of the mailings.
(Added by Stats. 2012, Ch. 178 (SB 1382), Sec.5)

§31593. Audit and report
The retirement board shall conduct an audit of the retirement system at least once every 12 months and report upon its financial condition. The retirement board may retain the services of a certified public accountant to perform the annual audit. That audit shall be performed in accordance with generally accepted auditing standards. The cost of the audit shall be considered a cost of the administration of the retirement system. The audit report shall address the financial condition of the retirement system, internal accounting controls, and compliance with applicable laws and regulations. A copy of the audit report shall 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

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All such contributions paid by the county or district, as the case may be, shall remain its contributions, and no right therein shall accrue to any employee prior to the employee’s election to take a regular, deferred, or disability retirement.

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

(Amended by Stats. 1980, Ch. 58, Sec. 2, Effective April 4, 1980)
(Amended by Stats. 1997, Ch. 223 (A.B. 1598), Sec. 2)

§31631. Authority of board of supervisors or governing body of a district to require members to pay contributions for retirement benefits; uniformity of contributions; authority to change contribution amount

(a) Notwithstanding any other law, a board of supervisors or the governing body of a district may, by resolution, ordinance, contract, or contract amendment under this chapter, without a change in benefits, require that members pay all or part of the contributions of a member or employer, or both, for any retirement benefits provided under this chapter. All of those payments are hereby designated as employee contributions. For members who are represented in a bargaining unit, the payment requirement shall be approved in a memorandum of understanding executed by the board of supervisors or the governing body of a district and the employee collective bargaining representative. The contributions shall be uniform either (1) with respect to all members of a recognized bargaining unit or (2) within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, and all local safety members other than local police officers, local firefighters, and county peace officers and classifications covered pursuant to Sections 7522.20 and 7522.25.

(b) Nothing in this section shall modify a board of supervisors’ or the governing body of a district’s authority under law as it existed on December 31, 2012, including any restrictions on that authority, to change the amount of member contributions.

(Added by Stats. 2012, Ch. 296 (AB 340) Sec. 32)

§31631.5. Board of supervisors or governing body of a district may require members to pay 50 percent of normal cost of benefits; bargaining process (effective January 1, 2018); authority to change contribution amount

(a) (1) Notwithstanding any other provision of this chapter, a board of supervisors or the governing body of a district may require that members pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 14 percent above the applicable normal rate of contribution of members established pursuant to this article for local general members, no more than 33 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 21639) for local police officers, local firefighters, county peace officers, and no more than 37 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 31639) for all local safety members other than police officers, firefighters, and county peace officers.

(2) Before implementing any change pursuant to this subdivision for any represented employees, the public employer shall complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and factfinding. This subdivision shall become operative on January 1, 2018. This subdivision shall not apply to any bargaining unit when the members of that unit are paying at least 50 percent of the normal cost of their pension benefit or are subject to an agreement reached pursuant to paragraph
(1). Applicable normal rate of contribution of members means the statutorily authorized rate applicable to the member group as the statutes read on December 31, 2012.

(b) Nothing in this section shall modify a board of supervisors’ or the governing body of a district’s authority under law as it existed on December 31, 2012, including any restrictions on that authority, to change the amount of member contributions.

(Added by Stats. 2012, Ch. 296 (AB 340) Sec. 33)

Article 6.8
Safety Members’ Contributions
(Article 6.8 added by Stats. 1951, Ch. 1098, Sec. 23)

§31639. Application
This article shall apply in a county subject to the provisions of Sections 31676.1 and 31695.1.

(Amended by Stats. 1957, Ch. 568, Sec. 5)

§31639.1. Age as basis; sex bias for rates of contributions, allowances or benefits; prohibition
The normal rates of contribution of safety members shall be based on age at the nearest birthday at the time of entrance into the retirement system. Notwithstanding any other provision of this chapter to the contrary, separate rates of contribution for male and female safety members shall not be maintained or established, nor shall different allowances or benefits be established for male and female members.

(Amended by Stats. 1976, Ch. 1436, Sec. 19.3)

§31639.25. Rates of contribution
The normal rates of contributions shall be such as will provide an average annuity at age 50 equal to one one-hundredth of the final compensation of safety members, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

The provisions of this section shall supersede the provisions of Section 31639.2.

(Amended by Stats. 1967, Ch. 550, Sec. 1)

§31639.26. Single rate of contributions; conditions
Instead of the normal rates of contribution required by Section 31639.25 the board may, upon actuarial advice, establish a single rate of contributions applicable to all persons becoming members after this section is made operative in that county by the board. However, this rate shall be such as to provide the average annuity described in Section 31639.25.

(Amended by Stats. 1973, Ch. 99, Sec. 2)

§31639.3. Table of percentages
Until revised pursuant to Sections 31453 and 31454, the rate of contribution of each safety member is that percentage of his or her earnable compensation shown in the following table according to age at the time of entry into the retirement system:

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<th>Percentage</th>
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<td>Age</td>
<td>Percentage</td>
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(Amended by Stats. 1986, Ch. 840, Sec. 5)

§31639.4. Rate for age 35
The normal rate of contribution established for age 35 is the rate for any safety member who has attained a greater age before entrance into the retirement system, and that established for age 21 is the rate for any safety member who enters the retirement system at a lesser age.
(Added by Stats. 1951, Ch. 1098, Sec. 23)
(Repealed by Stats. 2008, Ch. 164 (A.B. 3044), Sec. 6)

§31639.5. Normal rate of contribution; reduction
The normal rate of contribution shall be such as will provide an average annuity at age 50 equal to one two-hundredth of the final compensation of safety members according to the table adopted by the board of supervisors for each year’s service rendered after entering the system.
This section shall become operative in any county on the first day of the calendar month after the board of supervisors adopts a resolution making it operative in the county.
(Added by Stats. 1974, Ch. 493, Sec. 1)

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§31693. Proposed changes to employee health care benefits affecting retired employees; notice and comment

In any county, district, or county retirement system providing benefits under this article, the county, district, or county retirement system shall provide any recognized retiree organization, as defined in Section 31471.5, that is recognized by the retirement system of the county or district as representing the retired employees of that county or district reasonable advance notice of any proposed changes in employee health care benefits affecting those retired employees and the organization shall have a reasonable opportunity to comment prior to any formal action by the county, district, or county retirement system on the proposed changes. As used in this section, “proposed changes” means significant changes affecting health care benefits, including, but not limited to, changes in health care carriers, plan design, and premiums.

(Amended by Stats. 2012, Ch. 178 (SB 1382), Sec. 6)

Article 8.6
Post-Employment Benefits

(Added by Stats. 2006, Ch. 846 (A.B. 2863), Sec. 6, Effective September 30, 2006)

(Former Article 8.6 entitled “Alternative Group Insurance” was added by Stats. 1991, Ch. 1149, Sec. 3; Article applicable in counties adopting it as prescribed by Section 31694. Repealed by Stats. 2006, Ch. 846 (A.B. 2863), Sec. 5, Effective September 30, 2006)

§31694. Authority of board of supervisors to provide for contribution of public funds into Post-Employment Benefits Trust Account.

(a) The board of supervisors of a county or the governing body of a district or other public entity may, by ordinance or resolution and with the agreement of the board of retirement, provide for the contribution of funds by the county, a district, or other public entity into a Post-Employment Benefits Trust Account. The retirement system may establish the Post-Employment Benefits Trust Account as a part of the retirement fund. The Post-Employment Benefits Trust Account shall be established for the sole purpose of funding the benefits provided under a post-employment group health, life, welfare, or other supplemental benefits plan or plans established and maintained by the county or district, which plan or plans may provide for self-insured coverage or the payment of all or a portion of the premiums on one or more insurance contracts or health care service plan contracts for retired employees of the participating county, district, or other public entity, and their qualified spouses, dependents and beneficiaries.

(b) Contributions to the Post-Employment Benefits Trust Account may include the proceeds of debt issued by the county, a district, or other public entity solely for the purpose of funding post-employment health, life, welfare, or other supplemental benefits.

(c) The post-employment benefits provided with the funds contributed to the Post-Employment Benefits Trust Account are in addition to any other benefits provided under this chapter.

(d)(1) Except as described in subdivision (b) of Section 31694.1, the assets of the retirement fund may not be used, directly or indirectly, to pay the cost of any benefits provided through the Post-Employment Benefits Trust Account or, except to the extent allowed by federal tax law, to pay any direct or indirect cost of administering the Post-Employment Benefits Trust Fund.

(2) Except as described in subdivision (c) of Section 31694.1, funds in the Post-Employment Benefits Trust Account may not be used, directly or indirectly, to pay the cost of
any other benefits provided under this chapter.
(Added by Stats. 2006, Ch. 846 (A.B. 2863), Sec. 6, Effective September 30, 2006)
(Amended by Stats. 2007, Ch. 327 (A.B. 1124), Sec.4)

§31694.1. Funds accounted for separately in Post-employment Benefits Trust Account; Investment and administration of funds
(a) The retirement system shall separately account for the funds contributed to the Post-Employment Benefits Trust Account by each participating employer and the earnings and expenses related to the investment and administration of those funds.
(b) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole, exclusive, and plenary authority and fiduciary responsibility over the investment of the funds in the Post-Employment Benefits Trust Account, consistent with Sections 31594 and 31595, and as provided for in Section 17 of Article XVI of the California Constitution. The board of retirement or board of investments may invest funds in the Post-Employment Benefits Trust Account with those of the retirement system, to the extent allowed by federal tax laws. The investment earnings and investment expenses attributable to the investment activity of the Post-Employment Benefits Trust Account shall be accounted for separately from the investment earnings and expenses of the retirement fund.
(c) The funds in and investment earnings of the Post-Employment Benefits Trust Account shall be used to pay the reasonable costs related to investment expenses and administration of the Post-Employment Benefits Trust Account to the extent allowed by federal tax law. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.
(d) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, may establish rules and procedures governing the investments and administration of the Post-Employment Benefits Trust Account. The board of retirement or the board of investments shall determine the rate of interest to credit the funds in the Post-Employment Benefits Trust Account.
(e) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized to take any and all actions necessary to establish and administer the Post-Employment Benefits Trust Account in compliance with applicable federal tax laws or other legal requirements.
(f) The board of retirement, or the board of retirement acting jointly with a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, and a participating employer in the Post-Employment Benefits Trust Account shall establish, by written agreement, the respective roles and responsibilities of the retirement system and the participating employer with respect to the administration and investment of the Post-Employment Benefits Trust Account, consistent with Section 17 of Article XVI of the California Constitution. That agreement shall include, but is not limited to, funding, distribution, expenditure, actuarial, accounting, and reporting considerations, and any applicable investment parameters. The board may, in its discretion, authorize an employer to transfer assets into or out of the Post-Employment Retirement Account, however, any transfer of assets shall comply with the terms of the contract between the employer and the board, satisfy requirements under applicable rules of the Governmental Accounting Standards Board, and satisfy the requirements of federal tax law. Once the investment parameters are established, the board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole control over the investment activity of the Post-Employment Benefits Trust Account as described in subdivision (b). Upon agreement and authorization of the board of retirement and the governing body of
board, in its discretion and on a reasonable basis, among the postemployment health benefits fund, the retirement system, and the accounts of the public agencies and trust funds that participate in the postemployment health benefits fund.

(b) The establishment of the postemployment health benefits fund will enable the sharing of expenses of administration and investment, bringing economies of scale and better use of investment expertise to the retirement system. Consequently, the retirement system board may pay the startup and initial administrative expenses for the fund if the retirement system board determines that this expenditure is in the long-term best interests of the members and beneficiaries of the retirement system, and the employers that participate in that system. The board may also assess participating agencies and trusts for all or a portion of those expenses.

(Added by Stats. 2009, Ch. 326 (S.B. 11), Sec. 1)

§31699.10. Separate governance from retirement system; power and authority, fiduciary insurance (San Bernardino)

The postemployment health benefits fund board shall act as a separate governing board of the postemployment health benefits fund, with separate rules, regulations, and bylaws, and shall meet separately from the meetings of the retirement system. The postemployment health benefits fund board shall have all of the power, authority, and ability to act on behalf of the postemployment health benefits fund that the retirement system board has with respect to the retirement system, including, but not limited to, the power to obtain fiduciary insurance.

(Added by Stats. 2009, Ch. 326 (S.B. 11), Sec. 1)

Article 8.11
Dental Care
(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.20. County Retirement System Dental Care Program

This article shall be known and may be cited as the County Retirement System Dental Care Program.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.21. Dental care program enrollment for retired members

A retired member of a county retirement system covered by this chapter may enroll in a dental care program offered pursuant to this article, subject to meeting the eligibility requirements established for the program.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.22. Retired members responsible for premium payments

A retired member who elects to participate in the program shall be solely responsible for the payment of premiums.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.23. Benefits in addition to other benefits

The benefits in this article are in addition to any other benefits provided in this chapter.

(Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)
§31699.24. Third-party administration of dental care
   The board of retirement may contract with a third-party administrator to provide dental care to the retired member, his or her survivors, and his or her eligible dependents.
   (Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)

§31699.25. Provision subject to revision or discontinuation
   The provision of dental benefits in accordance with this article may be revised or discontinued at any time.
   (Added by Stats. 2012, Ch. 59 (AB 2664), Sec. 4)
§31720. Permanent incapacity
Any member permanently incapacitated for the performance of duty shall be retired for disability regardless of age if, and only if:
(a) The member’s incapacity is a result of injury or disease arising out of and in the course of the member’s employment, and such employment contributes substantially to such incapacity, or
(b) The member has completed five years of service, and
(c) The member has not waived retirement in respect to the particular incapacity or aggravation thereof as provided by Section 31009.
The amendments to this section enacted during the 1979-80 Regular Session of the Legislature shall be applicable to all applicants for disability retirement on or after the effective date of such amendments.
(Amended by Stats. 1980, Ch. 240, Sec. 1)

§31720.1. Permanent incapacity; Contra Costa County (Contra Costa)
Notwithstanding Section 31720, any member covered under Section 31751 who is permanently incapacitated shall be retired for disability regardless of age if, and only if:
(a) The member’s incapacity is substantially caused by injury or disease arising out of and in the course of the member’s employment, or
(b) The member has completed a total of 10 years of service. “Permanently incapacitated,” for the purpose of this section, means that the member is unable permanently to engage in any substantial gainful employment.
(Added by Stats. 1980, Ch. 58, Sec. 6, Effective April 4, 1980)

§31720.3. Request of competent medical opinion; prohibition against use of substitute for disciplinary process
In determining whether a member is eligible to retire for disability, the board shall not consider medical opinion unless it is deemed competent and shall not use disability retirement as a substitute for the employer’s disciplinary process.
(Added by Stats. 2008, Ch. 370 (A.B. 2023), Sec. 4)

§31720.4. Los Angeles County; members incapacitated as a result of active military service; retirement for nonservice-connected disability; benefit to spouse of member who dies as a result of active military service (Los Angeles)
(a) Notwithstanding subdivision (b) of Section 31720, a member who becomes permanently incapacitated for the performance of duty with his or her employing county or district as a direct consequence and result of injury or disease arising out of, and in the course of, active military service while on military leave from the county or district, shall be retired for nonservice-connected disability regardless of age or years of service.
(b) Notwithstanding any provision to the contrary in Section 31781.3, the surviving spouse of a member who dies as a direct consequence and result of injury or disease arising out of, and in the course of, active military service while on military leave from his or her employing county or district, shall be entitled to the combined benefit under Section 31781.3 regardless of the member’s years of service at the time of death.
(c) For the purposes of this section:
(1) “Active military service” means full-time duty within a branch of the Armed
Forces of the United States.

(2) “Military leave” means an authorized leave of absence taken from a member’s employing county or district as a result of a member being called to active military service because of his or her position as a reservist or member of the National Guard.

(d) This section shall apply only to the County of Los Angeles and shall not be operative with regard to the county, or a district within the county, until the board of supervisors of the county, or the governing body of the district, elects, by resolution adopted by a majority vote, to make this section operative. The adoption of a resolution making this section operative shall not create a vested right with respect to any member prior to the member’s retirement or death. The board of supervisors or the governing body of the district may repeal or amend the resolution at any time, except to the extent that it would affect a member who is retired or is deceased at the time of the repeal or amendment.

(Added by Stats. 2010, Ch. 83 (AB 1739), Sec. 1)

§31720.5. Heart trouble; presumption; conditions

(a) If a safety member, a fireman member, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200) or both or under this retirement system or under the State Employees’ Retirement System or under a retirement system established under this chapter in another county, and develops heart trouble, that heart trouble developing or manifesting itself in those cases shall be presumed to arise out of and in the course of employment. That heart trouble developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to such development or manifestation.

(b) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the board is bound to find in accordance with the presumption.

(c) As used in this section, “fireman member” includes a member engaged in active fire suppression who is not classified as a safety member.

(d) As used in this section, “member in active law enforcement” includes a member engaged in active law enforcement who is not classified as a safety member.

(Amended by Stats. 1974, Ch. 9, Sec. 1)

(Amended by Stats. 2012, Ch. 792 (SB 996), Sec. 2)

§31720.6. Cancer; presumption that disease arose out of and in the course of employment

(a) If a safety member, a firefighter, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200) or both or under this retirement system or under the Public Employees’ Retirement System or under a retirement system established under this chapter in another county, and develops cancer, the cancer so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of employment. The cancer so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.

(b) Notwithstanding the existence of nonindustrial predisposing or contributing factors, any safety member, firefighter member, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of cancer shall receive a service-connected disability retirement if the member demonstrates that he or she was exposed to a known carcinogen as a result of performance of job duties. “Known carcinogen” for purposes of this section means those carcinogenic agents recognized by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations.