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**GOVERNMENT CODE - GOV**

**TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]** ( Title 2 enacted by Stats. 1943, Ch. 134. )

**DIVISION 5. PERSONNEL [18000 - 22980]** ( Division 5 added by Stats. 1945, Ch. 123. )

**PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716]** ( Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2. )

**CHAPTER 12. Retirement from Employment [21060 - 21233]** ( Chapter 12 added by Stats. 1995, Ch. 379, Sec. 2. )

**ARTICLE 3. Second Tier Retirement—Contracting Agencies [21090 - 21100]** ( Article 3 added by Stats. 1995, Ch. 379, Sec. 2. )

**21090.** (a) The governing body of a contracting agency may establish a two-tiered retirement system developed by the board .

(b) It is the intent of the Legislature to make a two-tiered retirement system a matter for bargaining pursuant to provisions of law relating to employer-employee relations.

(Amended by Stats. 1996, Ch. 906, Sec. 133. Effective January 1, 1997.)

**21091.** (a) Contracting agencies as defined in Section 20022, some or all of whose employees are miscellaneous members included in the federal system, may amend their contracts with the board to provide an alternate level of benefits pursuant to this article. The alternate level of benefits shall be provided to all local miscellaneous members of a contracting agency whose services are also covered under the federal system who first become members of this system on and after the contract amendment effective date and shall be made available by election to eligible members also covered under the federal system who were employees of the contracting agency prior to the effective date of the employer's contract amendment as specified in Section 21099.

(b) This article shall not apply to any agency with a memorandum of understanding that precludes any changes in the retirement coverage of the employee bargaining unit subject to that agreement.

(Amended by Stats. 1996, Ch. 906, Sec. 134. Effective January 1, 1997.)

**21092.** (a) The normal rate of contribution for a local miscellaneous member subject to this article shall be 2 percent of compensation paid the member. A contracting agency may pay all or a portion of the member's normal contributions, pursuant to Section 20691.

(b) Notwithstanding subdivision (a), a new member, as defined in Section 7522.04, shall have a contribution rate of at least 50 percent of the normal cost, pursuant to Section 7522.30.

(Amended by Stats. 2013, Ch. 526, Sec. 22. (SB 220) Effective January 1, 2014.)

**21093.** (a) Except as provided in subdivision (b), a local miscellaneous member subject to this article may be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with five years of service.

(b) Any person who was a member of this system prior to the effective date of the employer's contract amendment to be subject to this article, and who elects to become subject to this article, may be retired for service upon his or her written application to the board if he or she has attained age 50 and is credited with five years of combined service.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21094.** (a) The service retirement allowance for a local miscellaneous member subject to this article shall be calculated in accordance with Section 21100.

(b) "Final compensation" for purposes of determining any benefits payable under this part for any local miscellaneous member service subject to this article shall be as defined by Section 20037 and shall not be reduced by any fraction or amount due to the inclusion in the federal system.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21095.** (a) Participation in the plan afforded by this article shall be made available to any employee who was included in the federal system and who was a member of this system prior to the effective date of the employer's contract amendment to be subject to this article. The election shall be irrevocable, shall be effective on the first day of the pay period following the member's election, and shall apply to all future service rendered by the member with that agency. Each contracting agency shall ensure each eligible member receives sufficient information to permit an informed election, is counseled regarding the benefits provided by this article, and receives an election document. The election document shall be filed with the contracting agency, and the contracting agency shall report the member's irrevocable election to the board.

(b) A member subject to this article shall be subject to all other provisions of this part. However, in the event of a conflict, this article shall supersede and prevail over other provisions contained in this part.

(Amended by Stats. 2006, Ch. 538, Sec. 296. Effective January 1, 2007.)

**21096.** The employer contribution rate of a contracting agency subject to this article shall be determined by the board as otherwise provided by this part.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21097.** (a) The monthly allowances payable to members based on service subject to this article shall be annually adjusted pursuant to Section 21329.

(b) The percentage of the amount of his or her retirement allowance as it was at his or her death payable based on service credited to him or her as a member subject to Section 21624, for a member subject to this article, shall be 25 percent.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21098.** The disability retirement pension for local miscellaneous service subject to this article shall be one of the following:

(a) Ninety percent of the factor applicable at age 65 as set forth in Section 21094 times final compensation multiplied by the number of years of service credited to him or her.

(b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of the benefit that would be payable to the member had the member continued in employment until age 65 but in that case the retirement allowance shall not exceed one-third of the final compensation. This subdivision is not applicable to members who are not entitled, at the time of retirement, to be credited with at least 10 years of service.

(c) If the disability retirement allowance is derived from this section and Section 21423, and would otherwise exceed the maximums provided by these sections, the pension payable with respect to each section shall be reduced in the same proportion as the allowance computed as though there was no limit, so that the total of the pensions shall equal the maximum allowed.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21099.** This article shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this article with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this article.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21100.** (a) The service retirement allowance for a local miscellaneous member who is subject to this article is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-hundredth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year in the following table, multiplied by the member's number of years of local miscellaneous service subject to this article:

Fraction	
50 .....	.5000
50¼ .....	.5167
50½ .....	.5334

50¾ .....	.5500
51 .....	.5667
51¼ .....	.5834
51½ .....	.6000
51¾ .....	.6167
52 .....	.6334
52¼ .....	.6500
52½ .....	.6667
52¾ .....	.6834
53 .....	.7000
53¼ .....	.7167
53½ .....	.7334
53¾ .....	.7500
54 .....	.7667
54¼ .....	.7834
54½ .....	.8000
54¾ .....	.8167
55 .....	.8334
55¼ .....	.8500
55½ .....	.8667
55¾ .....	.8834
56 .....	.9000
56¼ .....	.9167
56½ .....	.9334
56¾ .....	.9500
57 .....	.9667
57¼ .....	.9834
57½ .....	1.0000
57¾ .....	1.0167
58 .....	1.0334
58¼ .....	1.0500
58½ .....	1.0667
58¾ .....	1.0834

59 .....	1.1000
59¼ .....	1.1167
59½ .....	1.1334
59¾ .....	1.1500
60 .....	1.1667
60¼ .....	1.1834
60½ .....	1.2000
60¾ .....	1.2167
61 .....	1.2334
61¼ .....	1.2500
61½ .....	1.2667
61¾ .....	1.2834
62 .....	1.3000
62¼ .....	1.3167
62½ .....	1.3334
62¾ .....	1.3500
63 .....	1.3667
63¼ .....	1.3834
63½ .....	1.4000
63¾ .....	1.4167
64 .....	1.4334
64¼ .....	1.4500
64½ .....	1.4667
64¾ .....	1.4834
65 .....	1.5000

(b) The service retirement allowance for a local miscellaneous member who, pursuant to Section 21095, elects to be subject to this article shall be the sum of the allowance for service rendered subsequent to the effective date of the election computed pursuant to subdivision (a) of this section, added to the allowance for service rendered as a local miscellaneous member prior to the effective date of the election, computed pursuant to the formula specified in the employer's contract with the board.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*