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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 PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)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 13. Retirement Benefits [21250 - 21483] (Chapter 13 added by Stats. 1995, Ch. 379, Sec. 2.)

ARTICLE 5. Disability Retirement Benefits [21400 - 21432] (Article 5 added by Stats. 1995, Ch. 379, Sec. 2.)

21400. A safety member who retires on or after January 1, 2013, for industrial disability shall receive a disability retirement benefit equal to the greater of the following:

- (a) Fifty percent of the member's final compensation, plus an annuity purchased with their accumulated additional contributions, if any.
- (b) A service retirement allowance, if the member is qualified for service retirement.
- (c) An actuarially reduced factor, as determined by the actuary, for each quarter year that the member's service age is less than 50 years, multiplied by the number of years of safety service subject to the applicable formula, if the member is not qualified for service retirement.
- (d) Nothing in this section shall require a member to receive a lower benefit than the member would have received prior to January 1, 2013, as the law provided prior to that date.

(Amended by Stats. 2022, Ch. 404, Sec. 1. (AB 1722) Effective January 1, 2023.)

21404. Upon retirement for disability, a local miscellaneous member who is not subject to Section 21427 and who has attained the minimum age at which he or she may retire for service without an actuarial discount because of age, shall receive his or her service retirement allowance.

(Amended by Stats. 2000, Ch. 1002, Sec. 6. Effective January 1, 2001.)

21405. Upon retirement for nonindustrial disability, a local safety member who has attained the minimum age at which he or she may retire for service without an actuarial discount because of age, shall receive his or her service retirement allowance.

(Repealed and added by Stats. 1995, Ch. 379, Sec. 2.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

21406. Upon retirement of a patrol member for industrial disability he or she shall receive a disability retirement allowance of 50 per cent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Repealed (by Ch. 850) and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21407. Upon retirement of a state peace officer/firefighter member or a local safety member subject to Section 21363, 21363.1, 21363.3, or 21363.4 for industrial disability, the member shall receive a disability allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

(Amended by Stats. 2003, Ch. 10, Sec. 27. Effective May 14, 2003.)

21408. Upon the industrial disability retirement of a state miscellaneous member subject to Section 21151, the disability allowance shall be 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if

any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance, if the allowance, after deducting the annuity, is greater.

(Amended by Stats. 2004, Ch. 231, Sec. 4. Effective January 1, 2005.)

21409. Upon the industrial disability retirement of a state miscellaneous member within Section 21151, or a state industrial member whose service is subject to Section 21076 or 21076.5, the disability allowance shall be 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contribution, if any, or if qualified for service retirement, he or she shall receive his or her service retirement allowance, if the allowance, after deducting the annuity, is greater.

(Amended by Stats. 2017, Ch. 241, Sec. 10. (SB 525) Effective January 1, 2018.)

21410. Notwithstanding Sections 21406, 21407, 21408, 21409, and 21411, any state member who becomes subject to Section 21159 on or after January 1, 1993, and retires for industrial disability because of incapacity for the performance of duties in any employment with the state employer, as determined by the Department of Human Resources, shall receive a disability retirement allowance of 60 percent of the member's final compensation plus an annuity purchased with the member's accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive the service retirement allowance if the allowance, after deducting the annuity, is greater.

Benefits payable under this section are payable solely to state members employed in state bargaining units subject to Section 21159.

(Amended by Stats. 2012, Ch. 665, Sec. 144. (SB 1308) Effective January 1, 2013.)

21411. Upon retirement of a state safety member for industrial disability he or she shall receive a disability retirement allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

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

21412. Upon retirement of a state industrial member for industrial disability he or she shall receive a disability retirement allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

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

21413. Upon retirement of a local safety member for industrial disability he or she shall receive a disability retirement allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

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

21414. Upon retirement of a local miscellaneous member for industrial disability, he or she shall receive a disability allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

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

21415. Notwithstanding any provision of this part to the contrary, a retired state safety or state peace officer/firefighter member who, before January 1, 1986, was eligible for an industrial disability allowance and was living on or after December 30, 1989, but elected, instead, for a nonindustrial disability allowance may elect for an industrial disability retirement allowance. A change in retirement status pursuant to this section does not, in itself, constitute a basis for a change in the optional settlement or the beneficiary designation. The industrial disability allowance shall be calculated as if former Section 21293.5, as repealed by Chapter 557 of the Statutes of 1985, was never enacted and in no event shall be in an amount less than his or her nonindustrial disability allowance.

The allowance elected pursuant to this section shall be paid only on and after the effective date of the election and nothing in this section shall be construed as providing for any increase in benefits payable prior to the effective date of the election, or for any claim for the increase. The effective date of an election shall be no earlier than the first day of the month following the month in which the election is received by the board.

Any state safety member who applies for an election pursuant to this section shall have the burden of proving that he or she was, by competent medical evidence, industrially disabled at retirement and the duties of his or her job at retirement.

The board has no duty to identify, locate, or notify any annuitant who may be eligible for the benefits provided by this section.

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

21416. Notwithstanding any provision of this part, a state safety member employed by the Department of Corrections or the Department of the Youth Authority with 25 years or more of service credit as such, shall, upon retirement on or after January 1, 1982, for industrial disability, receive the disability allowance provided for in Section 21411 or a disability allowance equal to 1/50 th of final compensation multiplied by the number of years of state safety member service in the Department of Corrections or the Department of the Youth Authority with which the member is credited at retirement.

This section shall not become operative for any eligible member, until it is first agreed to in a memorandum of understanding reached between the state and the exclusive representatives of the employees in State Bargaining Unit No. 6 pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, and approved by the Legislature pursuant to law.

Payment of benefits pursuant to this section for any eligible member shall be retroactive to the effective date of the retirement of the member.

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

21418. The disability retirement allowance for a patrol, state safety, state peace officer/firefighter, state industrial, or local safety member retired because of industrial disability shall be derived from his or her accumulated normal contributions and the contributions of his or her employer.

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

21419. This system shall deduct the amount of advanced disability pension payments made to a local safety member pursuant to Section 4850.3 or 4850.4 of the Labor Code from the member's retroactive disability allowance, and reimburse the local agency that has made the advanced disability pension payments. If the retroactive disability allowance is not sufficient to reimburse the total advanced disability pension payments, an amount no greater than 10 percent of the member's monthly disability allowance shall be deducted and reimbursed to the local agency until the total advanced disability pension payments have been repaid. The local safety member and this system may agree to any other arrangement or schedule for the member to repay the advanced disability pension payments.

(Amended by Stats. 2002, Ch. 877, Sec. 1. Effective January 1, 2003.)

21419.5. The system shall deduct the amount of interim disability allowance made to a state member pursuant to subdivision (i) of Section 19253.5 from the member's retroactive disability allowance, and reimburse the state agency that has made the interim disability allowance payments. If the retirement disability allowance is not sufficient to reimburse the total interim disability allowance payments, an amount no greater than 10 percent of the member's monthly disability allowance shall be deducted and reimbursed to the state agency until the total interim disability allowance payments have been repaid. The state member and this system may agree to any other arrangements or schedule for the member to repay the interim disability allowance payments. If the disability application is denied, the system shall not be responsible for reimbursing the amount of interim disability allowance paid to the member by the state agency.

(Added by Stats. 1999, Ch. 310, Sec. 19. Effective January 1, 2000.)

21420. If a member retired for industrial disability has made contributions in respect to service rendered in a category of membership other than the category in which he or she was at the time he or she suffered the disability or incurred the disease causing his or her retirement for industrial disability, in addition to the disability retirement allowance to which he or she is otherwise entitled under this article, he or she shall receive an annuity purchased with his or her accumulated normal contributions made in respect to service rendered in the other category of membership.

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

21422. Every member retired for disability for whom a different disability retirement allowance is not prescribed by any other provision of this article, including a member who is entitled to an industrial disability retirement allowance if the disability is industrial but who retires for nonindustrial disability shall receive a disability retirement allowance which shall consist of:

- (a) An annuity that is the actuarial equivalent of his or her accumulated contributions at the time of retirement; and
- (b) If, in the opinion of the board, his or her disability is not due to intemperance, willful misconduct or violation of law on his or her part, a disability retirement pension derived from the contributions of the employer.

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

21423. The disability retirement pension, other than an industrial disability retirement pension, for a member, other than a member who is subject to Section 21424 or 21427, shall be such an amount as with that portion of his or her annuity provided by his or her accumulated normal contributions, shall make his or her disability retirement allowance equal to one of the following:

- (a) Ninety percent of one-fiftieth of his or her final compensation multiplied by the number of years of service credited to him or her.
- (b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of one-fiftieth of his or her final compensation multiplied by the number of years of service that would be creditable to him or her if his or her service were to continue until attainment by him or her of the age of 60 years, but in that case the retirement allowance shall not exceed one-third of final compensation.

This subdivision is not applicable to members who are not entitled, at the time of retirement, to be credited with at least 10 years of state service.

- (c) If qualified for service retirement, the member shall receive his or her service retirement allowance if that allowance is greater than the disability retirement allowance provided by this section.

(Amended by Stats. 2002, Ch. 664, Sec. 110. Effective January 1, 2003.)

21424. The nonindustrial disability retirement pension for state miscellaneous or state industrial service subject to Section 21076 or 21076.5 shall be one of the following:

- (a) Ninety percent of one-eightieth of his or her final compensation, multiplied by the number of years of service credited to him or her.
- (b) If the nonindustrial disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of one-eightieth of his or her final compensation multiplied by the number of years of service that would be creditable to him or her if his or her service were to continue until attainment by him or her of the age of 65 years, but in that case the retirement allowance may not exceed one-third of the final compensation. This subdivision is not applicable to members who have not been credited, at the time of retirement, with at least 10 years of state service.
- (c) If the nonindustrial disability retirement allowance is derived from this section and Section 21423, and would otherwise exceed the maximums provided by these sections, the pension payable with respect to each section shall be reduced in the same proportion as the allowance bears to the total allowance computed as if there were no limit, so that the total of the pensions shall equal the maximum allowed.
- (d) If qualified for service retirement, the member shall receive his or her service retirement allowance if that allowance is greater than the nonindustrial disability retirement allowance provided by this section.

(Amended by Stats. 2017, Ch. 241, Sec. 11. (SB 525) Effective January 1, 2018.)

21426. In no event shall the disability retirement pension under Sections 21422 and 21423 be more than sufficient to make the disability retirement allowance, exclusive of any annuity provided by accumulated additional contributions, exceed the service retirement allowance, exclusive of any annuity purchased by accumulated additional contributions, receivable by the member should he or she retire at age 60.

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

21427. The disability retirement allowance of a local miscellaneous and local safety member whose effective date of retirement for nonindustrial disability is after June 14, 1975, and whose last employment preceding retirement was with an employer subject to this section shall be increased by an amount that, when added to the disability retirement allowance otherwise payable under this part will make his or her disability retirement allowance, exclusive of the annuity payable from accumulated additional contributions, equal to 30 percent of final compensation if he or she has five years of service plus 1 percent of final compensation for each year of service in excess of five years to a maximum of 50 percent of final compensation.

In no event shall the disability retirement pension be more than sufficient to make the disability allowance equal the service retirement allowance, exclusive of any annuity purchased by accumulated additional contributions, receivable by the member were he or she to continue in service and retire at age 60.

The added amount payable under this section shall be a liability solely of employers subject to this section. In the case of a member who has service with more than one employer, the liability for the disability retirement pension provided by this section shall be apportioned on the basis of the member's service to any employers who have elected to be subject to this section.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendments to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after June 14, 1975, by express provision in the contract making the contracting agency subject to the provisions of this section.

This section shall only apply to members who retire for disability on and after the date the agency elects to be subject to this section.
(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21428. Upon retirement of a local safety member or a local miscellaneous member for industrial disability, if the member is totally disabled he or she shall receive in lieu of the allowance otherwise provided by this article a disability retirement allowance equal to 75 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any.

For purposes of this section, "totally disabled" means inability to perform substantial gainful employment and the presumptions contained in Section 4662 of the Labor Code shall also be applied to the determination of total disability.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of contracts made after January 1, 1974, by express provision in the contract making the contracting agency subject to the provisions of this section.

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

21428.1. (a) Upon retirement of a patrol member for industrial disability as the result of a single event that results in serious bodily injury, the member shall receive the higher of the allowance provided by Section 21406, or, the disability allowance otherwise provided pursuant to this section equal to 3 percent of his or her final compensation multiplied by the number of years of patrol service credited to him or her plus an annuity purchased with his or her accumulated additional contributions, if any. This section shall not apply to a disability that manifests more than six months after the effective date for the industrial disability retirement. This section does not entitle the member to an industrial disability retirement if the member would not otherwise be eligible for an industrial disability retirement.

(b) This section shall apply only to serious bodily injuries, and shall not be applied to disabilities that are the result of any of the following:

- (1) Cumulative trauma.
- (2) Cumulative injuries, including, but not limited to, heart conditions, stroke, stress, anxiety, or diabetes.
- (3) Presumptive injuries or illnesses as described in Chapter 1 (commencing with Section 3200) of Part 1 of Division 4 of the Labor Code.
- (4) Stress-related disabilities.
- (5) Physical disability having mental origin.

(c) If a patrol member has other service credit as a state peace officer/firefighter member, state safety member, local safety member, state miscellaneous, state industrial, or local miscellaneous member under this system, the cumulative benefit pursuant to this section, including an annuity purchased with his or her accumulated contributions, shall not exceed 90 percent of final compensation.

(d) For purposes of this section, "serious bodily injury" includes any of the following:

- (1) Total loss of sight in one or both eyes.
- (2) Total loss of hearing in both ears.
- (3) Amputation or total loss of function in a hand, arm, foot, or leg.
- (4) A spinal cord injury resulting in paralysis which causes the complete loss of function in a hand, arm, foot, or leg.
- (5) Physical injury to the brain resulting in serious cognitive disorders or paralysis which causes the complete loss of function in a hand, arm, foot, or leg.
- (6) Injury to a major internal organ which substantially limits one or more "major life activities." Major life activities are functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and performing substantial gainful employment.
- (7) Any other serious physical injury that results in the inability to perform substantial gainful employment.

(e) This section applies only to those patrol members who are described by at least one of the following:

- (1) Employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section.
- (2) Excluded from the definition of state employee in subdivision (c) of Section 3513.
- (3) Employed by the executive branch of government and not a member of the civil service.

(f) In the event of a dispute regarding the applicability of this section, the board shall proceed with retirement pursuant to any other section that may apply and with the payment of any benefits that are payable pursuant to any other section when this section is not applicable. If the board subsequently determines that this section is applicable, an amount equal to the benefits paid shall be deducted from the benefits payable pursuant to this section because of the determination.

(Added by Stats. 2006, Ch. 240, Sec. 7. Effective September 13, 2006.)

21430. Upon retirement of a local safety member for industrial disability, the member shall receive in lieu of the allowance otherwise provided by this article a disability retirement allowance in the amount of the percentage of final compensation equal to the percentage of permanent disability determined by the Workers' Compensation Appeals Board for the purposes of permanent disability payments pursuant to Article 3 (commencing with Section 4650) of Chapter 2 of Part 2 of the Labor Code with respect solely to the injury resulting in the disability retirement and giving effect to Section 4750 of the Labor Code, but not less than 50 percent nor in excess of 90 percent of the member's final compensation.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of contracts made after June 14, 1975, by express provision in such contract making the contracting agency subject to the provisions of this section.

This section shall only apply to members who retire for disability on and after the date the agency elects to be subject to this section.

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

21432. If, prior to attaining the minimum age for voluntary retirement for service applicable to members of his or her class, a recipient of a disability retirement allowance, other than one for industrial disability, engages in a gainful occupation not in state service, the board shall reduce his or her monthly disability retirement pension to an amount that, when added to the compensation earned monthly by him or her, shall not exceed the amount of the maximum compensation earnable by a person holding the position that he or she held at the time of his or her retirement, or if that position has been abolished, the maximum compensation earnable by a person holding it immediately prior to its abolition.

If his or her earnings are further altered, the board may further alter his or her disability retirement pension to the lower of the following amounts:

- (a) The amount of the disability retirement pension upon which he or she was originally retired.
- (b) An amount that, when added to the compensation earned by him or her shall equal the amount of the maximum compensation earnable by a person holding the position that he or she held at the time of his or her retirement, or, if that position has been abolished, the maximum compensation earnable by a person holding it immediately prior to its abolition.

The recipient of a disability allowance shall furnish earnings information as requested by the board to administer this section. If the recipient fails to furnish requested information, the disability retirement pension shall be discontinued until such time as the requested information is furnished. If the requested information is furnished, the disability retirement pension shall be reinstated.

When he or she reaches the minimum age for voluntary retirement for service applicable to members of his or her class his or her retirement allowance shall be made equal to the amount it would be if not reduced under this section, and shall not again be modified for any cause.

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