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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 PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)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 14. Death Benefits [21490 - 21635.5] (Chapter 14 added by Stats. 1995, Ch. 379, Sec. 2.)

ARTICLE 3. Preretirement 1959 Survivor Allowance [21570 - 21583] (Article 3 added by Stats. 1995, Ch. 379, Sec. 2.)

21570. No person shall receive more than one allowance under this article and that allowance shall be the largest of the monthly allowances to which he or she would otherwise be entitled.

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

21571. (a) If the death benefit provided by Section 21532 is payable on account of a member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

- (1) The surviving spouse of the member, who has the care of children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after attainment of that age.
- (2) The guardian or conservator of surviving children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated.
- (3) The surviving spouse of the member, who does not qualify under paragraph (1).
- (4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to, or in a registered domestic partnership with, the member for at least one year prior to death, or was married to, or in a registered domestic partnership with, the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated, shall be paid three hundred sixty dollars (\$360) if there is one child or four hundred thirty dollars (\$430) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars (\$180) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid one hundred eighty dollars (\$180) per month.

(B) If there are two children, the children shall be paid three hundred sixty dollars (\$360) per month divided equally between them.

(C) If there are three or more children, the children shall be paid four hundred thirty dollars (\$430) per month divided equally among them.

(3) A surviving spouse who has attained or attains 62 years of age and, with respect to that surviving spouse, who was either continuously married to, or in a registered domestic partnership with, the member for at least one year prior to death, or who was married to, or in a registered domestic partnership with, the member prior to the occurrence of the injury or onset of the illness which resulted in death, shall be paid one hundred eighty dollars (\$180) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be seventy dollars (\$70) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains 62 years of age, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars (\$180) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) The amendments to this section by Chapter 1617 of the Statutes of 1971 shall apply only to 1959 survivor allowances payable April 1, 1972, and thereafter.

(e) This section does not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

(f) On and after the date determined by the board, all assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(g) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section is projected to have a surplus in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section is projected to have a deficit in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, its rate of contribution shall be increased until the projected deficit is paid.

(Amended by Stats. 2016, Ch. 50, Sec. 47. (SB 1005) Effective January 1, 2017.)

21572. (a) In lieu of benefits provided in Section 21571, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member who has the care of children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 22 years of age or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated.

(3) The surviving spouse of the member who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to, or in a registered domestic partnership with, the member for at least one year prior to death, or was married to, or in a registered domestic partnership with, the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars (\$450) per month if there is one child or five hundred thirty-eight dollars (\$538) per month if there

are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of two hundred twenty-five dollars (\$225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars (\$225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars (\$450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars (\$538) per month divided equally among them.

(3) A surviving spouse who has attained or attains 62 years of age and, with respect to that surviving spouse, who was either continuously married to, or in a registered domestic partnership with, the member for at least one year prior to death, or was married to, or in a registered domestic partnership with, the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid two hundred twenty-five dollars (\$225) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars (\$88) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains 62 years of age, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars (\$225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, and school safety members employed with a school district or community college district as defined in subdivision (i) of Section 20057, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

(f) This section does not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

(g) On and after January 1, 2000, all state members covered by this section shall be covered by the benefit provided under Section 21574.7.

(h) On and after the date determined by the board, all assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(i) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section is projected to have a surplus in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section is projected to have a deficit in its 1959 survivor benefit account as of the date the assets and liabilities are first pooled, its rate of contribution shall be increased until the projected deficit is paid.

(Amended by Stats. 2016, Ch. 50, Sec. 48. (SB 1005) Effective January 1, 2017.)

21573. (a) In lieu of benefits provided in Section 21571 or Section 21572, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member who has the care of children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 22 years of age or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving children, including stepchildren, of the member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated.

(3) The surviving spouse of the member who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to, or in a registered domestic partnership with, the member for at least one year prior to death, or who was married to, or in a registered domestic partnership with, the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars (\$700) per month if there is one child, or eight hundred forty dollars (\$840) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of three hundred fifty dollars (\$350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are children, including stepchildren, of the deceased member who are not married or in registered domestic partnerships and are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars (\$350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars (\$700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars (\$840) per month divided equally among them.

(3) A surviving spouse who has attained or attains 62 years of age, and, with respect to that surviving spouse, who was either continuously married to, or in a registered domestic partnership with, the member for at least one year prior to death, or who was married to, or in a registered domestic partnership with, the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid three hundred fifty dollars (\$350) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars (\$140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die, marry, or enter into a registered domestic partnership or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains 62 years of age, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars (\$350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained 62 years of age prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees that are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative

action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20444. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency that, in its original contract or by amending its contract, first elects effective on or after January 1, 1985, and prior to July 1, 2001, to make this article applicable to local members employed by the agency. On or after January 1, 1985, and prior to July 1, 2001, contracting agencies already subject to Section 21571 or Section 21572 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section. Any public agency first contracting with the board on or after January 1, 1994, and prior to July 1, 2001, or any contracting agency amending its contract to remove exclusions of member classifications on or after January 1, 1994, and prior to July 1, 2001, that has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system, shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(j) This section shall apply to local members employed by a contracting agency that has included this benefit in its contract with the board on or before June 30, 2001.

(k) This section shall not apply to any contracting agency that first contracts with the board on or after July 1, 2001.

(l) On and after January 1, 2000, all eligible state and school members covered by this section shall be covered by the benefit provided under Section 21574.7.

(Amended by Stats. 2016, Ch. 50, Sec. 49. (SB 1005) Effective January 1, 2017.)

21574. (a) In lieu of benefits provided in Section 21571, 21572, or 21573, if the death benefit provided by Section 21532 is payable on account of a local member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

- (1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after the attainment of that age.
- (2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.
- (3) The surviving spouse of the member, who does not qualify under paragraph (1).
- (4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the contracting agency, shall be paid:

- (1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand nine hundred dollars (\$1,900) per month if there is one child or two thousand two hundred eighty dollars (\$2,280) per

month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of nine hundred fifty dollars (\$950) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid nine hundred fifty dollars (\$950) per month.

(B) If there are two children, the children shall be paid one thousand nine hundred dollars (\$1,900) per month divided equally between them.

(C) If there are three or more children, the children shall be paid two thousand two hundred eighty dollars (\$2,280) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid nine hundred fifty dollars (\$950) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred eighty dollars (\$380) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid nine hundred fifty dollars (\$950) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to members of a contracting agency that, by amending its contract, first elects effective on or after January 1, 1994, to make this section applicable to local members employed by the agency. On and after January 1, 1994, contracting agencies already subject to Section 21571, 21572, or 21573 may elect by contract amendment to be subject to this section. A public agency first contracting with the board or amending its contract to remove exclusions of member classifications on or after July 1, 2001, shall include this section or Section 21574.5 in its contract. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(e) The rate of contribution of an employer subject to this section shall be calculated using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(f) This section or Section 21574.5 shall apply to public agencies, employing eligible school safety members as defined in Section 20444, that first contract with the board on or after July 1, 2001.

(g) At the time the single benefit level provided under Section 21574.5 exceeds the single benefit level provided under this section, no new contracts or amendments to contracts shall provide for the benefits under this section.

(Amended by Stats. 2001, Ch. 21, Sec. 34. Effective June 25, 2001. Applicable from January 1, 2000, by Sec. 37 of Ch. 21.)

21574.5. (a) In lieu of benefits provided in Section 21571, 21572, 21573, or 21574, if the death benefit provided by Section 21532 is payable on account of a local member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the contracting agency, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand dollars (\$1,000) per month if there is one child or one thousand five hundred dollars (\$1,500) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of five hundred dollars (\$500) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid five hundred dollars (\$500) per month.

(B) If there are two children, the children shall be paid one thousand dollars (\$1,000) per month divided equally between them.

(C) If there are three or more children, the children shall be paid one thousand five hundred dollars (\$1,500) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid five hundred dollars (\$500) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be five hundred dollars (\$500) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid five hundred dollars (\$500) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to members of a contracting agency that, by amending its contract, first elects on or after January 1, 2000, to make this section applicable to local members employed by the agency. On and after January 1, 2000, contracting agencies already subject to Section 21571, 21572, or 21573 may elect by contract amendment to be subject to this section. A public agency that first contracts with the board or amends its contract to remove exclusions of member classifications on or after July 1, 2001, shall include this section or Section 21574 in its contract. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(e) This section or Section 21574 shall apply to public agencies that employ eligible school safety members, as defined in Section 20444, and that first contract with the board on or after July 1, 2001.

(f) The rate of contribution of an employer subject to this section shall be calculated using a method determined by the board.

(g) In each subsequent year following the enactment of this section, the benefits prescribed by this section shall be indexed at a rate of 2 percent per year for both beneficiaries already receiving the benefit and for potential beneficiaries of members who die in the future.

(Amended by Stats. 2001, Ch. 21, Sec. 35. Effective June 25, 2001. Applicable from January 1, 2000, by Sec. 37 of Ch. 21.)

21574.7. (a) In lieu of benefits provided in Section 21571, 21572, or 21573, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age or are incapacitated because of a disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving spouse of the member who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the employer, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand five hundred dollars (\$1,500) per month if there is one child or one thousand eight hundred dollars (\$1,800) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of seven hundred fifty dollars (\$750) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid seven hundred fifty dollars (\$750) per month.

(B) If there are two children, the children shall be paid one thousand five hundred dollars (\$1,500) per month divided equally between them.

(C) If there are three or more children, the children shall be paid one thousand eight hundred dollars (\$1,800) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid seven hundred fifty dollars (\$750) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred dollars (\$300) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid seven hundred fifty dollars (\$750) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to state and school members effective on or after January 1, 2000.

(e) All assets and liabilities of state employers subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of state members employed by the state.

(f) All assets and liabilities of school employers, as defined in Section 20063, that are subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section.

(g) The rate of contribution of an employer subject to this section shall be calculated using a method determined by the board. Surplus assets shall be applied to reduce the rate of contribution. If a deficit exists, the rate of contribution shall be increased until the deficit is paid.

(h) On and after January 1, 2000, all state employees and school members shall be covered by this section.

(Amended by Stats. 2009, Ch. 188, Sec. 3. (SB 519) Effective January 1, 2010.)

21575. When the survivor is entitled to receive a monthly allowance as a special death benefit provided by Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), or Article 5 (commencing with Section 21620) and at the same time is entitled to receive a 1959 survivor allowance, the 1959 survivor allowance payable in any month shall be reduced by the amount of the other allowance or benefit.

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

21576. This article applies from and after January 1, 1960, or the date of a member's subsequent election, to state members and local miscellaneous members who are employees of school districts that are contracting agencies, or who are included in this system under Chapter 6 (commencing with Section 20610), who entered or enter membership after November 4, 1959, or who were members on November 4, 1959, and elected, pursuant to rules of the board, to be subject to this article, or who so elect within 90 days following October 1, 1961, in the manner prescribed. This article shall not apply to any member with respect to service that is included in the federal system.

An election pursuant to this section shall be in writing and shall be effective only when received in the office of the board. Contributions under this article for the member shall begin on the first of the month or the payroll period following the filing of the election. The board may, on the request of any member who on November 4, 1959, elected to be subject to this article, cancel the election if it finds that the election was made because of the member's mistake or misunderstanding, and that the member has acted diligently in making the request. The cancellation shall be effective as of the first day of the month following the board's action canceling the election.

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

21577. This article shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this article by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees pursuant to Section 20469 is not required, or, in the case of contracts made after July 20, 1959, by express provision in the contract making the contracting agency subject to the provisions of this article. Any public agency first contracting with the board on and after January 1, 1994, which has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system shall be subject to this section.

Except as provided in Section 21578, this article shall not in any event apply to employees of a contracting agency whose services are included in the federal system. Members who are employees of a contracting agency when the agency becomes subject to this article and whose services are not included in the federal system shall have the right to elect to be subject to this article, that election to be made in the manner, and within the time periods, specified in rules adopted by the board. Employees of that contracting agency becoming members thereafter shall be subject to this article without election.

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

21578. This article shall apply to employees of a contracting agency whose services are included in the federal system when employees of another contracting agency who are subject to this article are made by lawful merger of the contracting agencies the employees of the contracting agency. In that case, the application of this article shall be limited to those employees to whom it applied prior to the merger and shall terminate upon expiration of five years following the date of the merger.

(Amended by Stats. 1996, Ch. 906, Sec. 194. Effective January 1, 1997.)

21579. Notwithstanding Sections 21576 and 21577, this article shall apply to a state member or a local member whose employer is subject to this article and whose services were included in the federal system in any period after the inclusion is terminated.

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

21580. Notwithstanding anything to the contrary in Sections 21571, 21572, 21573, and 21574, this article shall apply to a surviving spouse of a local member who has attained or attains the age of 60 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death and has not remarried subsequent to the member's death.

A contracting agency that is already subject to this article, on and after January 1, 1993, may elect to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees shall not be required. In the case of contracts made on or after January 1, 1993, this section shall apply to members of a contracting agency that either expressly includes this section in its contract or subsequently elects to amend its contract to make this section applicable to local members employed by the agency.

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

21581. (a) The rate of contribution of a member subject to this article shall include, in addition to his or her normal rate, two dollars (\$2) per month or fraction thereof, or ninety-three cents (\$0.93) for each biweekly payroll period or fraction thereof, where salaries are paid on that basis. Those contributions shall not become a part of a member's accumulated contributions or be treated or administered as normal contributions and shall not be refundable to a member under any circumstances. Those contributions shall be available only for payment of 1959 survivor allowances.

(b) Notwithstanding subdivision (a), the total required monthly premium for Section 21574.5, as determined by the board, shall be offset by the uniform amortization of surplus assets within this account. If the total monthly premium is equal to, or less than, four dollars (\$4), the member contribution portion shall be two dollars (\$2) per month and the employer shall pay the difference, if any. If the total monthly premium required exceeds four dollars (\$4), the member and the employer shall evenly share the total required monthly premium.

(c) Notwithstanding subdivision (a), the total monthly premium required for Section 21574.7, as determined by the board, shall be offset by the uniform amortization of surplus assets within this account. Member contributions shall be two dollars (\$2) per month until such time as the future required monthly premium exceeds four dollars (\$4), and the employer shall pay the difference between the total required monthly premium and the member's contribution. Once the total required monthly premium exceeds four dollars (\$4), the member and the employer shall evenly share the required monthly premium.

(Amended by Stats. 1999, Ch. 801, Sec. 4.1. Effective January 1, 2000.)

21582. Notwithstanding any other provision of this article, if so agreed to in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, as it pertains to represented employees of the California State University, the employer may pay, in addition to the employer contributions, all or a portion of the employee contributions required for the benefit payable pursuant to Section 21574.7 or the employees may pay, in addition to the employee contributions, all or a portion of the employer contributions required for the benefit payable pursuant to Section 21574.7.

(Amended by Stats. 2005, Ch. 328, Sec. 17. Effective January 1, 2006.)

21583. Notwithstanding any other provision of law, a local member may elect, within 90 days after the effective date of the amended contract, to have the 1959 survivor allowance coverage under this article.

The effective date of coverage shall be the date that the member first became eligible for the 1959 survivor allowance. The member shall contribute two dollars (\$2) for every month from the date of original eligibility.

This section shall not apply to any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for the approval of contracts, except that an election among the employees is not required.

This section shall not apply to members while their services are included in the federal system.

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