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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 PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)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 3. Membership in System [20280 - 20356] (Chapter 3 added by Stats. 1995, Ch. 379, Sec. 2.)

ARTICLE 3. Optional Membership [20320 - 20327] (Article 3 added by Stats. 1995, Ch. 379, Sec. 2.)

20320. (a) A person directly appointed by the Governor, without the nomination of any officer or board, or directly appointed by the Attorney General, Lieutenant Governor, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction exempt from civil service under Article VII of the California Constitution, except those appointed pursuant to subdivision (i) of Section 4 thereof, is excluded from membership in this system unless the person files with the board an election in writing to become a member. The election effective date shall be the start date of the current appointment, provided the election is received by this system within 90 days of the applicable start date. If the election is not received by this system within 90 days from the start date, the effective date shall be the first day of the month in which the election is received by this system.

(b) Upon electing to become a member, the person may further elect at any time prior to retirement to receive service credit for their prior, excluded state service by making the contributions as specified in Sections 21050 and 21051.

(Amended by Stats. 2021, Ch. 186, Sec. 7. (SB 634) Effective January 1, 2022.)

20321. Persons appointed to the office of the Adjutant General or Assistant Adjutant General after October 1, 1961, shall have rights to membership as provided in this article for other persons appointed by the Governor and shall have no rights under the retirement benefit provisions of the Military and Veterans Code, except that persons entitled to retirement benefits under the Military and Veterans Code appointed to the office of the Adjutant General or Assistant Adjutant General shall continue to receive military retirement benefits during their term of office.

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

20322. (a) An elective officer is excluded from membership in this system unless the officer files with the board an election in writing to become a member. The election effective date shall be the start date of the current term, provided the election is received by this system within 90 days of the applicable start date. If the election is not received by this system within 90 days from the start date, the effective date shall be the first day of the month in which the election is received by this system. Upon electing to become a member, the officer may further elect at any time prior to retirement to receive service credit for their prior, excluded service by making the contributions as specified in Sections 21050 and 21051.

(b) As used in this part, "elective officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature, and any appointive officer of a city or county occupying a fixed term of office, as well as officers of the state or contracting agencies elected by the people, and persons elected to a city council or a county board of supervisors.

(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers, other than city or county officers, who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. For city or county elected or appointed officers, this exclusion shall only apply to those officers who are first elected or appointed to an office on or after January 1, 1997, or who are elected or appointed to a term of office not consecutive with the term of office held on December 31, 1996. This exclusion shall not apply to persons elected to a city council or county board of supervisors.

(d) Any person holding the office of city attorney or the office of assistant city attorney, whether employed, appointed, or elected, is excluded from the definition of "elective officer" as defined in subdivision (b). This subdivision shall apply only to persons first employed, elected, or appointed on or after July 1, 1994, or following any break in state service while serving in the office if the office was held on June 30, 1994.

(e) In accordance with Section 20125, the board shall be the sole judge of which elected or appointed positions qualify the incumbent as an "elective officer" in this system under this section.

(f) Notwithstanding any other provision of law, with respect to elective officers of contracting agencies, payment by a contracting agency of employer contributions and any other amounts for employer paid benefits under this system shall not be construed as receipt of salary or compensation by the elective officer for purposes of any statutory salary or compensation limitation.

(Amended by Stats. 2021, Ch. 186, Sec. 8. (SB 634) Effective January 1, 2022.)

20323. For the purposes of this section "veteran" means a member of the Veterans' Home of California.

Any veteran who is employed by the Veterans' Home of California is excluded from membership in this system unless he or she files, or has filed prior to October 1, 1959, an election in writing to become a member. The election shall be filed within 90 days after notice of eligibility to participate from this system, and shall not be revocable.

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

20324. (a) An employee of the Senate or the Assembly, or the respective committees thereof, whose salaries or wages are paid from the Senate Operating Fund or the Assembly Operating Fund or the Operating Funds of the Assembly and Senate, shall be deemed a "legislative employee." A legislative employee is excluded from membership in this system unless the person files with the board an election in writing to become a member. The election effective date shall be the start date of the current position, provided the election is received by this system within 90 days of the applicable start date. If the election is not received by this system within 90 days from the start date, the effective date shall be the first day of the month in which the election is received by this system. The election shall not be required of a legislative employee who was a member of this system on October 1, 1963.

(b) Upon electing to become a member, a legislative employee may further elect at any time prior to retirement to receive service credit for their prior, excluded legislative service and the legislative employee shall have the option as to how much of that prior legislative service is to be credited. The legislative employee shall make contributions to this system as specified in Sections 21050 and 21051 for the previous service as a legislative employee for which they desire to receive service credit.

(Amended by Stats. 2021, Ch. 186, Sec. 9. (SB 634) Effective January 1, 2022.)

20325. (a) A county superintendent of schools, a school district, a community college district, or a contracting agency, whose respective resolution or contract contains an election to be subject to this section, may offer to its part-time employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 the option to elect at any time to become a member by filing an election in writing with the board to become a member. An election by a county superintendent of schools, a school district, or a community college district to be subject to this section shall subject all of its employees whose service is less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 to mandatory social security coverage but shall not, in and of itself, affect any other county superintendent of schools, school district, or community college district with respect to any social security coverage of employees of the other county superintendent of schools, school district, or community college district.

(b) If a part-time employee elects to become a member, he or she may further elect at any time prior to retirement to receive service credit for past service that was less than the minimum service prescribed by paragraph (2) of subdivision (a) of Section 20305 by making the contributions as specified in Sections 21050 and 21051.

(c) This section shall not apply to those part-time employees of any contracting agency nor to any contracting agency until the contracting agency elects to be subject to this section by amendment to its contract with the board made pursuant to Section 20474 or by express provision in its contract with the board.

(d) This section shall not apply to those part-time employees of any county superintendent of schools or school district or community college district nor to any county superintendent of schools or school district or community college district until the county superintendent of schools, the school district, or community college district, elects to be subject to this section by adopting a resolution to that effect and transmitting that resolution through the county superintendent of schools to the board. Notwithstanding any specified effective date in a resolution, the resolution shall not become effective until it is received by this system.

(Amended by Stats. 2000, Ch. 489, Sec. 4. Effective January 1, 2001.)

20326. (a) Notwithstanding Section 20305, officers, warrant officers, and enlisted personnel of the California National Guard who are not members pursuant to Section 20282 are excluded from membership in this system unless those officers, warrant officers, and enlisted personnel file a written election with the board to become a member.

(b) The Military Department shall report to the board any employment and other information requested by the board for purposes of this section.

(Added by Stats. 2007, Ch. 355, Sec. 7. Effective January 1, 2008.)

20327. (a) Notwithstanding any other provision of this part, a National Guard member may, at any time and on a prospective basis, cancel his or her election of membership in this system by filing a written notice of cancellation with the board.

(b) If a National Guard member cancels his or her election of membership, that National Guard member shall not be required to pay contributions as described in Section 20772.5, effective as of the date the written notice of cancellation was filed with the board.

(c) A National Guard member may only elect to cancel his or her membership pursuant to this section one time.

(d) This section shall remain operative until subsequent provisions of law delete the requirement that National Guard members pay the employer contributions as a condition of membership in this system.

(Added by Stats. 2007, Ch. 355, Sec. 8. Effective January 1, 2008. Conditionally inoperative as provided in subd. (d).)