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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 PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)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 5. Contract Members of System [20460 - 20593] (Chapter 5 added by Stats. 1995, Ch. 379, Sec. 2.)

ARTICLE 1. General Provisions [20460 - 20487] (Article 1 added by Stats. 1995, Ch. 379, Sec. 2.)

[20460.](#) (a) Any public agency may participate in this system by contract entered into between its governing body and the board pursuant to this part. However, a public agency shall not enter into the contract within three years of termination of a previous contract for participation.

(b) The changes to this section made by the act adding this subdivision shall apply to a contract entered into, amended, or extended on and after January 1, 2021.

(Amended by Stats. 2020, Ch. 223, Sec. 1. (AB 2967) Effective January 1, 2021.)

[20460.1.](#) (a) Except as provided in subdivision (d), for all counties that contract with the board for the provision of retirement benefits for their eligible employees as of the implementation date of the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8), a trial court and a county in which the trial court is located shall jointly participate in this system by joint contract. All other counties and trial courts may elect such joint participation in accordance with the procedures set forth in this chapter. Except as provided in subdivision (b) and except as otherwise provided in this part, the trial court and the county jointly participating in this system shall each have all of the rights and all of the obligations of a contracting agency under the contract and under this part.

(b) A county shall not be responsible for the employer or employee contributions required to be paid on behalf of trial court employees. A trial court shall not be responsible for the employer or employee contributions required to be paid on behalf of county employees.

(c) As used in this chapter, "joint contract" means a contract with the board as set forth in subdivision (a).

(d) A county and the trial court located within the county may jointly elect to separate the joint contract into individual contracts if the county and the trial court both make that election voluntarily, as specified in Section 20471.2.

(Amended by Stats. 2023, Ch. 307, Sec. 2. (SB 548) Effective January 1, 2024.)

[20461.](#) The board may refuse to contract with, or to agree to an amendment proposed by, any public agency for any benefit provisions that are not specifically authorized by this part and that the board determines would adversely affect the administration of this system.

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

[20462.](#) The governing body of a public agency that has established a pension trust or retirement plan funded by individual or group life insurance or annuity contracts may, notwithstanding any provision of this part to the contrary, enter into a contract to participate in this system making its employees members of this system, and continue the trust or plan with respect to service rendered prior to the contract date. A pension trust or retirement plan so continued shall be deemed not a local retirement, pension, or annuity fund or system for the purpose of this chapter. The public agency shall have all the rights of any other contracting agency to provide prior service benefits for its employees but may elect in the contract instead not to provide a benefit with respect to prior service, in which case the service rendered by its employees prior to the contract date shall be deemed not to be state service.

(Amended by Stats. 2006, Ch. 538, Sec. 293. Effective January 1, 2007.)

20463. (a) The governing body of a public agency, or an employee organization, recognized under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, that represents employees of the public agency, that desires to consider the participation of the agency in this system or a specific change in the agency's contract with this system, may ask the board for a quotation of the approximate contribution to this system that would be required of the agency for that participation or change.

(b) If the governing body of a public agency requests a quotation, it shall provide each employee organization representing employees that will be affected by the proposed participation or change with a copy of the quotation within five days of receipt of the quotation.

(c) If an employee organization requests a quotation, the employee organization shall provide the public agency that will be affected by the proposed participation or change with a copy of the quotation within five days of receipt of the quotation.

(d) The board may establish limits on the number of quotations it will provide for each contract and the fees, if any, to be assessed for each quotation provided. The limits and fees established by the board shall be applied in the same manner to a public agency or an employee organization.

(Amended by Stats. 2002, Ch. 889, Sec. 1. Effective January 1, 2003.)

20465. (a) On request of the board, the public agency shall furnish data concerning its employees as the board requires to make the necessary valuations and investigation into the experience among the employees.

(b) On request of the board, the public agency shall furnish the board a copy of any third party or internal audit performed by or for the public agency.

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

20466. The approximate contribution quoted by the board and the actual contribution to be made if a contract results shall be determined by actuarial valuations by the actuary of the prior and future service liability under this system, on account of the employees involved in the computation, in the same manner as the contribution required of the state on account of its employees was originally determined, except that in consideration of the number of employees of the agency or other circumstances, a different manner of determining the contribution may be adopted by the board, upon recommendation of the actuary.

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

20467. Notwithstanding Section 20466, the approximate contribution quoted by the board and the actual contributions for a contracting agency that is an employer for purposes of Chapter 9 (commencing with Section 20790) shall be the employer rate under Chapter 9, plus the additional amount required under that chapter on account of liability for service to date of contract and for benefits with respect to which it is not subject to Section 20506, the amount to be determined in accordance with Section 20466.

(Amended by Stats. 2003, Ch. 10, Sec. 4. Effective May 14, 2003.)

20468. The approximate and actual contributions are similar to premiums under insurance policies. The approximate contribution quoted by the board to the public agency is subject to the contingency that the actual contribution certified by the board after the approval of a contract may differ from the approximate contribution because of:

(a) Change in number or salaries of employees included.

(b) Change in prior service benefits.

(c) Time elapsed between the quotation and effective date of the contract.

(d) Change in effective date of membership.

(e) Change in manner of determining contributions.

(f) Any changes in the facts or assumptions upon which the quotation was based.

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

20469. If after receiving the approximate contribution quotation the governing body intends to approve the proposed contract, it shall adopt a resolution giving notice of that intention. The resolution shall contain a summary of the major provisions of the proposed retirement plan. The contract shall not be approved unless an election has been held to permit the employees proposed to be included in this system to express by secret ballot their approval or disapproval of the retirement proposal. Prior to the election each governing body shall be furnished with a schedule of rates of contribution of members, which shall be made available by the governing body to each employee proposed to be included in this system. The ballot at the election shall include the summary of the retirement plan as set forth in the resolution. The election shall be conducted in the manner prescribed by the governing body which shall be such as to permit the firefighters, the police officers, the county peace officers, and the other employees proposed to be included in this system to express separately their approval or disapproval.

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

20469.1. (a) Notwithstanding 20469, if after receiving the approximate contribution quotation the governing body of a county and the presiding officer of a trial court located in the same county intend to approve a proposed joint contract, both shall adopt a resolution giving notice of that intention. Each resolution shall contain a summary of the major provisions of the proposed retirement plan. The contract shall not be approved unless an election has been held to permit the employees proposed to be included in this system to express by secret ballot their approval or disapproval of the retirement proposal. Prior to the election the county governing body and the trial court presiding officer shall be furnished with a schedule of rates of contribution of members, which shall be made available by the governing body and the presiding officer to each employee proposed to be included in this system. The ballot at the election shall include the summary of the retirement plan as set forth in the resolution. The election shall be conducted in the manner prescribed by the governing body and the presiding officer which shall be such as to permit the firefighters, the police officers, the county peace officers, and the other employees proposed to be included in this system to express separately their approval or disapproval.

(b) For all counties that participate in this system by contract with the board as of the implementation date of the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8), the trial court located in the county shall be deemed to elect to participate in this system jointly with the county pursuant to the terms and conditions of the county's contract with the board. The county's contract shall be amended to add the trial court as a contracting party. The amended contract shall be deemed adopted by the county. This amendment shall establish a joint contract.

(Added by Stats. 2000, Ch. 1010, Sec. 6. Effective January 1, 2001.)

20470. The governing body shall not include in this system any group if a majority of its members voted to disapprove the proposed plan or if two-thirds of those of its members who are also members of an existing local retirement pension or annuity fund or system do not vote for approval of the proposed plan. If there are no members of any group when the election is held, the governing body may include the group in this system, and members subsequently entering the group shall become members of this system under the provisions of this part.

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

20471. Approval of the contract shall be by ordinance adopted by the affirmative vote of a majority of the members of the governing body, not less than 20 days after the adoption of the resolution of intention, or by ordinance adopted by a majority vote of the electorate of the public agency voting thereon.

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

20471.1. Notwithstanding Section 20471, and except as provided in subdivision (b) of Section 20469.1, approval of a proposed joint contract by a trial court and county shall be by ordinances or resolutions adopted by both the affirmative vote of a majority of the members of the governing body of a county and the presiding officer of the trial court, not less than 20 days after the latest adoption of the notices of intention. The resolution of the presiding officer of the trial court and the resolution or ordinance of the governing body of the county which approve the joint contract must be adopted within 30 days of each other.

(Added by Stats. 2000, Ch. 1010, Sec. 7. Effective January 1, 2001.)

20471.2. (a) A county and a trial court that elect to separate the joint contract into individual contracts shall do so by ordinances or resolutions adopted by both the affirmative vote of a majority of the members of the governing body of a county and the presiding officer of the trial court. In order to be effective, the resolution of the presiding officer of the trial court and the resolution or ordinance of the governing body of the county shall be adopted within 30 days of each other.

(b) The separation shall not be a cause for the modification of employment retirement benefits. The retirement benefit levels provided to employees under the joint contract shall not be modified until after expiration of an existing memorandum of understanding or agreement or a period of 24 months, whichever is longer, unless the county and its recognized employee organizations or the trial court and its recognized employee organizations mutually agree to a modification.

(c) Following the separation of the joint contract, any plan under separate contract that has under 100 active members, or otherwise meets applicable board criteria, shall participate in a risk pool pursuant to Section 20840.

(d) An election made pursuant to this section shall be irrevocable, and, upon separation of the joint contract, the county and trial court shall be ineligible to reestablish a joint contract.

(Added by Stats. 2023, Ch. 307, Sec. 3. (SB 548) Effective January 1, 2024.)

20472. Errors in any contract may be corrected through amendments approved by the adoption of suitable resolutions by the contracting parties. Excluded employees may be included by groups through amendments approved in the manner prescribed for the approval of the contracts, except that if there were no members of an excluded group when the contract was entered into, an

election among the employees is not required. Additional benefits for prior service provided in this part but not included in a contract, may be included through amendments so approved except that an election among employees is not required.

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

20473. Investigations and valuations necessary to adjust the agency's contributions on account of changed benefits or conditions of retirement shall be made in the manner prescribed for valuations and investigations to determine the approximate and actual contributions. Amendments in the contract necessary because of those valuations and investigations shall be approved in the manner prescribed for the approval of the contracts, except that an election among employees is not required.

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

20474. Whenever by any provision of law an election is given to contracting agencies to subject themselves and their employees to provisions of this part otherwise not applicable to contracting agencies and their employees, and no other means of making the election is expressly provided, any contracting agency may make the election by amendment to its contract with the board approved in the manner provided for the approval of the contracts including an election among the employees affected unless the amendment only adds benefits without affecting members' contributions, in which case the election among the employees is not required. An amendment to a joint contract that has been approved by the governing body of the county shall be deemed approved by the presiding officer of the trial court located within the county. The amendment shall specify the date upon which the agency and its employees shall become subject to the provisions. That date shall not be earlier than the first day following the approval of the contract pursuant to Section 20471, except that if the rate of the employer's contributions changes, the effective date shall not be earlier than the first day of the pay period following the approval. Any election made by amendment to the contract shall be irrevocable until the contract is terminated. However, benefits provided by the amendment may be increased or improved from time to time by further amendment to the contract. From and after the date specified in the amendment to the contract the provisions, as they are in effect at the time of election and as they may be amended in the future, shall apply to the contracting agency and to its employees, and the rights, privileges, duties, liabilities, and responsibilities of the contracting agency and of each of its employees included in this system shall be governed thereby.

(Amended by Stats. 2000, Ch. 1010, Sec. 8. Effective January 1, 2001.)

20475. Notwithstanding Section 20474, a contracting agency may amend its contract or previous amendments to its contract, without election among its employees, to reduce benefits, to terminate provisions that are available only by election of the agency to become subject thereto, to provide different benefits or provisions or to provide a combination of those changes with respect to service performed after the effective date of the contract amendment made pursuant to this section, if the contracting agency has fully discharged all of the obligations imposed by Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 with respect to the contract amendments, and if the amendment provides that:

(a) The contract amendments apply uniformly with respect to all members within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, local sheriffs, local safety members, school safety members, or all local safety members other than local police officers, local firefighters, county peace officers, local sheriffs, local safety members, or school safety members.

(b) A member shall be subject to the contract as amended only if, after the effective date of the contract amendment, the member either (1) receives service credit for the first time within a classification, or (2) the member returns to service within a classification following termination of membership as provided for in subdivision (b) of Section 20340 unless the member has redeposited or elects prior to 90 days after returning to service to redeposit contributions pursuant to Section 20750, in which case the member shall not be subject to the contract amendment.

Amendments to the contract and amendments of previous amendments to the contract may be effected pursuant to this section only once during any three-year period with respect to each of the classifications.

(Amended by Stats. 2009, Ch. 130, Sec. 20. (AB 966) Effective January 1, 2010.)

20476. Whenever any provision of this part requires action by ordinance, action by resolution is authorized, except with respect to cities and counties, if the governing body of the public agency is authorized to take action by resolution.

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

20477. If the head of a public agency is an individual, rather than a board or other governing body, all actions required or permitted by this part to be taken by ordinance may be taken by order of the individual, and every action required by this part to be taken by a public agency governed by a governing body shall be taken by a public agency governed by an individual.

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

20478. Notwithstanding any other provision of this part, the board of directors of a metropolitan water district, or the governing body of any other public agency, shall adopt any order, motion, resolution or ordinance, required under the provisions of this part to be adopted by a majority vote or by a two-thirds vote or by any other specified vote, by an affirmative vote as constitutes under the provisions of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), or the statute creating or authorizing the organization of any other public agency, a majority vote or a two-thirds vote or other specified vote, as the case may be, of the board or body.

(Amended by Stats. 1996, Ch. 906, Sec. 55. Effective January 1, 1997.)

20479. Notwithstanding any other provision of law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, no contract or contract amendment shall be made to provide retirement benefits for some, but not all members of the following membership classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, local sheriffs, local safety officers, or school safety members.

No contract or contract amendments shall provide different retirement benefits for a subgroup, including, but not limited to, bargaining units or unrepresented groups, within those membership classifications.

This section does not preclude changing membership classification from one membership classification to another membership classification or exclusion of groups of members by contract.

For purposes of this section, "benefit" shall not be limited to the benefits set forth in Section 20020.

(Amended by Stats. 2009, Ch. 130, Sec. 21. (AB 966) Effective January 1, 2010.)

20479.5. Notwithstanding Section 20479, where a memorandum of understanding entered prior to August 11, 1988, provided a different retirement benefit formula for a subgroup of employees in a member classification, that contracting agency may, pursuant to a memorandum of understanding, amend its contract to provide the same retirement formula applicable to that subgroup to all or part of the contracting agency's other employees in the same member classification.

(Added by Stats. 2000, Ch. 882, Sec. 1. Effective January 1, 2001.)

20480. (a) An out-of-class appointment by a contracting agency employer or a school employer shall not exceed a total of 960 hours in each fiscal year.

(b) A contracting agency employer or school employer shall track the hours worked by an employee serving in an out-of-class appointment and report that service to the system no later than 30 days following the end of each fiscal year.

(c) The compensation for an appointment described in subdivision (a) shall be pursuant to a collective bargaining agreement or a publicly available pay schedule.

(d) (1) An employer who violates this section shall pay penalties to the system according to the following:

(A) An amount of money equal to three times the employee and employer contributions that would otherwise be paid to the system for the difference between the compensation paid for an appointment described in subdivision (a) and the compensation that would have been paid and reported to the system, but for the vacancy, for the position in accordance with a publicly available pay schedule applicable to the vacant position, for the entire period or periods the member serves in an out-of-class appointment.

(B) Reimbursement for administrative expenses incurred in responding to this situation.

(2) Penalties paid to the system pursuant to this subdivision are not normal contributions or additional contributions that would stand to the credit of a member's individual account.

(e) The member shall bear no liability, obligations, or expense as a result of the unlawful actions of the employer with respect to this section.

(f) For purposes of this section, "out-of-class appointment" means an appointment of an employee to an upgraded position or higher classification by the employer or governing board or body in a vacant position for a limited duration.

(g) For purposes of this section, "vacant position" refers to a position that is vacant during recruitment for a permanent appointment. "Vacant position" does not refer to a position that is temporarily available due to another employee's leave of absence.

(Amended by Stats. 2018, Ch. 767, Sec. 1. (AB 2696) Effective January 1, 2019.)

20481. All members of a local system included by contract in this system thereupon become subject to this part and cease to be members of the local system. Payments being made to persons who have retired or their survivors or beneficiaries under the local system on the effective date of the contract, or any subsequent amendment thereto, shall be continued and paid by this system at the rates existing on that date under the local system unless the agency elects in its contract or by amendment thereto to provide a

recalculation of retirement allowances for persons retired under the local system on the basis of the provisions of the contract. The liability for those payments shall be included in the computation of the prior service liability of the contracting agency. All members of the local system who are members under provisions continuing membership after termination of service shall be deemed members of this system under Section 20731 with credit in this system for all of the service with regard to which membership was continued under the local system.

(Amended by Stats. 2001, Ch. 793, Sec. 8. Effective January 1, 2002.)

20482. Subject to the approval of the board as in the case of all other employees, the contracting agency may elect to continue the local system and to place under this system only a portion of the members of the local system.

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

20483. If all members of the local system become members of this system, the operation of the local system shall be discontinued as of the date provided for in the contract, and if only a part of the members become members of this system, the operation of the local system shall be so discontinued with respect to that part.

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

20484. Notwithstanding Section 20483, if a member of a local system, which is also a reciprocal system pursuant to Section 20351, elects to join this system as permitted by Section 20504, the operation of the local system shall continue.

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

20485. It is the intent of the Legislature that contracting agencies in conjunction with recognized local employee organizations, develop alternative retirement plans that provide benefits under a defined contribution program.

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

20486. (a) Notwithstanding Section 20484, a contracting agency that continued the local system for members who elected to become members of this system prospectively pursuant to Section 20504 may transfer to this system the cash and securities to the credit of the local system and held on account of persons who became members of this system. The transfer of cash and securities shall be made pursuant to Section 20530. The service credited under the local system shall be credited under this system as prior service.

(b) This section shall not apply to the employees of any contracting agency nor to any contracting agency unless and until the contracting agency elects to be subject by amendment to this section by amendment to its contract with the board, made pursuant to Section 20474.

(Added by renumbering Section 20521.1 by Stats. 1996, Ch. 906, Sec. 57. Effective January 1, 1997.)

20487. Notwithstanding any other provision of law, no contracting agency or public agency that becomes the subject of a case under the bankruptcy provisions of Chapter 9 (commencing with Section 901) of Title 11 of the United States Code shall reject any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or any similar provision of law; nor shall the agency, without the prior written consent of the board, assume or assign any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or any similar provision of law.

(Added by renumbering Section 20486 (as added by Stats. 1996, Ch. 502) by Stats. 2000, Ch. 1002, Sec. 4. Effective January 1, 2001.)