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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 PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)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 2. Contract Provisions [20500 - 20516.5] (Article 2 added by Stats. 1995, Ch. 379, Sec. 2.)

20500. The contract may include any provisions consistent with this part and necessary in the administration of this system as it affects the public agency and its employees.

Whenever in this part 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 by amendment to their contracts with the board, any contract made after the effective date of the provision giving the election may include any provisions necessary to give effect to the election of the contracting agency.

(Repealed and added by Stats. 1995, Ch. 379, Sec. 2.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

20501. Contracts with school employers may include school district employees in this system only with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement Plan.

(Amended by Stats. 2003, Ch. 519, Sec. 3. Effective January 1, 2004.)

20502. (a) (1) The initial contract shall include in this system all firefighters, police officers, county peace officers, local sheriffs, and other employees of the contracting agency, except as exclusions in addition to the exclusions applicable to state employees may be agreed to by the agency and the board. The contract shall not provide for the exclusion of some, but not all, firefighters, police officers, county peace officers, or local sheriffs. The exclusions of employees, other than firefighters, police officers, county peace officers, or local sheriffs, shall be based on groups of employees such as departments or duties, and not on individual employees.

(2) The exclusions of groups shall not be made by amendments to contracts. An amendment to a contract to enumerate or clarify provisions related to groups of employees in a manner that does not expand those already subject to exclusion shall not be considered an exclusion prohibited by this paragraph.

(3) Membership in this system is compulsory for all employees included under a contract.

(b) This section shall not be construed to supersede Sections 20303 and 20305.

(c) 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. 2. (AB 2967) Effective January 1, 2021.)

20503. Notwithstanding Section 20055, a contracting agency may amend its contract to remove exclusions prospectively only, and without creating liability for prior service.

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

20504. Notwithstanding Section 20055, a contracting agency, which is a reciprocal system pursuant to Section 20351, may amend its contract to remove an exclusion of groups of employees of the reciprocal system who elect to become members of this system prospectively only. The amendment shall not create liability for prior service.

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

20505. Notwithstanding any other provision of law, every employee who enters or reenters service with a contracting agency on and after January 1, 1992, shall immediately become a member of this system irrespective of any probationary period, if the employee would otherwise be eligible for membership. This system shall not exclude employees, or groups of employees, solely on the basis of their status as probationary employees.

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

20506. Any contract heretofore or hereafter entered into shall subject the contracting agency and its employees to all provisions of this part and all amendments thereto applicable to members, local miscellaneous members, or local safety members except those provisions that are expressly inapplicable to a contracting agency until it elects to be subject to those provisions.

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

20507. A contracting agency whose contract is effective on and after January 1, 1974, that does not become an employer for purposes of Chapter 9 (commencing with Section 20790), or a contracting agency that ceases to be an employer, shall be subject to all provisions of the retirement law as it exists on the date of contract or on the date a contracting agency ceases to be an employer, whichever the case may be, and as it may be amended thereafter excepting the provisions of Chapter 9, other than Section 20834, and those amendments thereafter as are expressly made inapplicable to a contracting agency until the agency elects to be subject thereto.

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

20508. When a contracting agency is succeeded by another agency, whether or not the former agency ceases to exist, or when the functions of a contracting agency are assumed by a succeeding agency, the succeeding agency, may, if it is not already a contracting agency, become a contracting agency of this system. If a succeeding agency is or becomes a contracting agency, the contract of the former agency shall be merged into the contract of the succeeding agency.

Whenever there is a merger of contracts pursuant to this section, whether in whole or in part, the assumed contracts, or portions thereof, of the former agency's contract shall cease to exist and the contract of the succeeding agency shall be deemed a continuation of the prior agency's contract. However, any changes in contract terms in the succeeding agency's contract with respect to employees of the former agency shall be considered as a new contract with respect to those provisions.

Accumulated contributions held for or made by the former agency and its employees, and assets derived from those contributions, shall be merged with analogous contributions under the contract of the succeeding agency. Credit for prior and current service to members under the former agency's contract, which accrued while they were eligible for membership, shall not be reduced by the merger. Employees of a noncontracting public agency included in the succeeding agency contract shall become members in the manner applicable to employees of other contracting agencies and shall receive credit for service accordingly.

The liability to this system with respect to service credited under the former agency's contract shall become a contractual liability of the succeeding agency. The former and succeeding agencies may agree to apportion and adjust between them any payments with respect to service credit liability. However, no agreement shall operate to defeat the liability of the succeeding agency with respect to that service.

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

20508.3. A successor agency, pursuant to Section 20508, for the El Dorado County Fire Protection District and the Diamond Springs-El Dorado Fire Protection District may provide employees the defined benefit plan or formula that those employees received from their respective employer prior to the annexation.

(Added by Stats. 2024, Ch. 888, Sec. 1. (SB 1240) Effective September 28, 2024.)

20508.5. On and after June 30, 2020, a successor agency, pursuant to Section 20508, for the Central Fire Protection District and the Aptos/La Selva Fire Protection District may provide employees the defined benefit plan or formula that those employees received from their respective employer prior to the consolidation. The successor agency shall designate the surviving contract within 180 days of the consolidation.

(Added by Stats. 2020, Ch. 65, Sec. 1. (AB 1140) Effective January 1, 2021.)

20509. When a school district ceases to exist and is succeeded by, or the territory thereof is attached to, another school district that is a contracting agency, the contract under which the contracting agency participates in this system shall be considered, with respect to the former district and its employees, a continuation of the contract under which the former district participated, with the changes as the succeeding contract contains. The board shall determine the amount of accumulated contributions held under the contract of the county superintendent of schools which had been made by the former district, and the contributions shall be transferred to the credit of the contract under which the succeeding district participates.

Nothing in this section or Section 20508 shall authorize a school district, the formation of which becomes effective for all purposes after October 1, 1961, to participate in this system except as provided in Chapter 6 (commencing with Section 20610).

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

20510. When a hospital becomes a contracting agency pursuant to subdivision (p) of Section 20057, the contract shall be construed as a continuation of the city's contract for all purposes of this part, and the sponsoring city, the hospital, and the board shall enter into an agreement under the terms of which hospital employees shall retain, under the hospital's contract, all of the retirement rights and benefits that have accrued to them under the city's contract. The board shall compute the unpaid costs, if any, of the accrued rights and benefits, and the city shall pay to the board that amount in a manner and at times satisfactory to all parties to the agreement. Thereafter, the city shall be relieved and discharged from all liabilities on account of rights and benefits that have accrued to the hospital employees, and the hospital shall then become liable for those rights and benefits under its contract with the board.

On and after the effective date of the hospital's contract with the board, neither the city nor the hospital shall be an employer as defined in Section 20790.

All employees of the city who have retired or separated from employment prior to the effective date of the hospital's contract shall be treated as retired city employees or former city employees, as the case may be, for all purposes of this part, whether or not they ever worked in the hospital.

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

20511. Notwithstanding this article or Article 5 (commencing with Section 20570), when all or a portion of one agency's contract is merged into that of another, the retirement allowances may be computed separately for service under the former contract and service under the succeeding contract. In these cases, a transferred member shall be subject to the terms and conditions of the succeeding agency's contract as the member was a new employee of the succeeding agency at the time of transfer.

Furthermore, when all or a portion of one agency's contract is merged into that of another, and when eligibility for membership is different between the two contracts, the differences shall not create prior service liabilities as against either agency, and transferred members shall not be entitled under either contract to credit for service rendered when they were not eligible for membership.

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

20512. Whenever in this part 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, a contracting agency may exercise the right of election independently with respect to its employees included in the insurance system established under Title II of the Social Security Act and with respect to its employees not so included and with respect to those employees who are local police officers, local firefighters, county peace officers, local safety members other than local police officers or local firefighters or county peace officers, and local miscellaneous members.

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

20513. Notwithstanding the election given in Section 20514 to contracting agencies, whether to subject themselves and their employees thereto, the contract of school districts in which the average daily attendance of all districts combined is in excess of 400,000 and which are governed by the same governing board, without action by the governing board, shall be subject to that section and shall include all provisions authorized by Section 20514 to be included therein by contract amendment.

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

20514. If the effective date of coverage under the federal system of members who are employees of a contracting agency under this system is prior to the time employee federal contributions are first deducted from the salaries and wages of the employees and a reduced benefit is provided with respect to service from and after the effective date of coverage, member contributions shall be transferred in the manner and to the extent provided in this section to the Old Age and Survivors' Insurance Revolving Fund and applied to payment of employee federal contributions for the period prior to the deductions.

There shall be transferred from the member's accumulated contributions an amount equal to employee federal contributions due for the member. The amount so transferred shall not exceed the difference between the total normal contributions of the member and the normal contributions that would have been credited to his or her account had the reduced rate of contribution provided in the amended contract with the public agency been in effect from and after the effective date of coverage, assuming that contributions in any year were made in equal monthly installments.

The amount by which the retroactive employee contributions due for a member exceeds the amount transferred from the employee account shall be transmitted to the fund by the contracting agency and constitute an indebtedness of the member to the employer and a lien on any salary or wages payable to the employee or on his or her account.

If the contract is or has been amended to provide for the transfer of retroactive employee contributions in the manner provided in this section, the amount by which the total normal contributions of each member for the period subsequent to the effective date of coverage under the federal system less the total normal contributions that would have been credited to the account of the member had the reduced rate of contribution provided in the amended contract with the public agency been in effect from and after that date of coverage exceed the employee federal contributions for the member for the period after the date of coverage, shall be paid to the member.

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

20515. (a) A contracting agency that has included this section in its contract with the board, by express provision or by amendment, on or before December 31, 2001, may provide that, notwithstanding any other provision of this part, service that was in fact also covered under the federal system shall not be deemed as service that was also covered under the federal system, for all purposes of this part, except for the benefits provided by Article 3 (commencing with Section 21570) of Chapter 14. The amendment shall only be applicable to persons who are employed on and after the effective date of the amendment.

(b) The amendment made to this section by Chapter 636 of the Statutes of 1994 shall apply only to a contracting agency that includes this section in its contract on and after January 1, 1995, and on or before December 31, 2001.

(Amended by Stats. 2001, Ch. 793, Sec. 9. Effective January 1, 2002.)

20516. (a) Notwithstanding any other provision of this part, with or without a change in benefits, a contracting agency and its employees may agree, in writing, to share the costs of the employer contribution. The cost sharing pursuant to this section shall also apply for related nonrepresented employees as approved in a resolution passed by the contracting agency.

(b) The collective bargaining agreement or memorandum of understanding ratified by the employee bargaining unit and the governing body of the contracting agency shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members or the methodology for calculating that cost-sharing rate. The member contributions shall be contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part. The contributions shall be uniform, except as described in subdivision (c), with respect to all members within each of the following classifications: local miscellaneous members, local police officers, local firefighters, county peace officers, and all local safety members other than local police officers, local firefighters, and county peace officers. The balance of any costs shall be paid by the contracting agency and shall be credited to the employer's account. An employer shall not use impasse procedures to impose member cost sharing on any contribution amount above that which is authorized by law.

(c) Member cost sharing may differ by classification for groups of employees subject to different levels of benefits pursuant to Sections 7522.20, 7522.25, and 20475, or by a recognized collective bargaining unit if agreed to in a memorandum of understanding reached pursuant to the applicable collective bargaining laws.

(d) This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts. Contributions provided by this section shall be withheld from member compensation or otherwise collected when the contract amendment becomes effective. Once the contracting agency elects to be subject to this section, contract amendments shall not be required to effectuate cost sharing in subsequent collective bargaining agreements or memoranda of understanding ratified by the employee bargaining unit and the governing body of the agency; provided, however, that if a collective bargaining agreement or memorandum of understanding sets forth a methodology for calculating the cost-sharing rate instead of an exact percentage, the contracting agency shall provide the retirement system with a signed side letter ratified by the employee bargaining unit and the agency indicating the exact percentage at least 90 days prior to the effective date of the cost-sharing rate as set forth in the signed side letter.

(e) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(f) Nothing in this section shall preclude a contracting agency and its employees from independently agreeing in a memorandum of understanding to share the costs of any benefit, in a manner inconsistent with this section. However, any agreement in a memorandum of understanding that is inconsistent with this section shall not be part of the contract between this system and the contracting agency.

(g) If, and to the extent that, the board determines that a cost-sharing agreement under this section would conflict with Title 26 of the United States Code, the board may refuse to approve the agreement.

(h) Nothing in this section shall require a contracting agency to enter into a memorandum of understanding or collective bargaining agreement with a bargaining representative in order to increase the amount of member contributions when such a member contribution increase is authorized by other provisions under this part.

(Amended by Stats. 2018, Ch. 213, Sec. 1. (AB 2310) Effective January 1, 2019.)

20516.5. (a) Equal sharing of normal costs between a contracting agency or school employer and their employees shall be the standard. It shall be the standard that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution.

(b) Notwithstanding any other provision of this part, a contracting agency or a school district may require that members pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 8 percent of pay for local miscellaneous or school members, no more than 12 percent of pay for local police officers, local firefighters, and county peace officers, and no more than 11 percent of pay for all local safety members other than police officers, firefighters, and county peace officers.

(c) Before implementing any change pursuant to subdivision (b), for any represented employees, the employer shall complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and factfinding. Subdivision (b) shall become operative on January 1, 2018. Subdivision (b) shall not apply to any bargaining unit when the members of that contracting agency or school district are paying for at least 50 percent of the normal cost of their pension benefit or the contribution rates specified in subdivision (b) under an agreement reached pursuant to Section 20516.

(Added by Stats. 2012, Ch. 296, Sec. 21. (AB 340) Effective January 1, 2013.)