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GOVERNMENT CODE - GOV

TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205] (Title 3 added by Stats. 1947, Ch. 424.)

DIVISION 4. EMPLOYEES [31000 - 33017] (Division 4 added by Stats. 1947, Ch. 424.)

PART 3. RETIREMENT SYSTEMS [31200 - 33017] (Part 3 added by Stats. 1947, Ch. 424.)

CHAPTER 3. County Employees Retirement Law of 1937 [31450 - 31898] (Chapter 3 added by Stats. 1947, Ch. 424.)

ARTICLE 10. Disability Retirement [31720 - 31755.4] (Article 10 added by Stats. 1947, Ch. 424.)

31720. Any member permanently incapacitated for the performance of duty shall be retired for disability regardless of age if, and only if:

- (a) The member's incapacity is a result of injury or disease arising out of and in the course of the member's employment, and such employment contributes substantially to such incapacity, or
- (b) The member has completed five years of service, and
- (c) The member has not waived retirement in respect to the particular incapacity or aggravation thereof as provided by Section 31009.

The amendments to this section enacted during the 1979–80 Regular Session of the Legislature shall be applicable to all applicants for disability retirement on or after the effective date of such amendments.

(Amended by Stats. 1980, Ch. 240.)

31720.1. Notwithstanding Section 31720, any member covered under Section 31751 who is permanently incapacitated shall be retired for disability regardless of age if, and only if:

- (a) The member's incapacity is substantially caused by injury or disease arising out of and in the course of the member's employment, or
- (b) The member has completed a total of 10 years of service.

"Permanently incapacitated," for the purpose of this section, means that the member is unable permanently to engage in any substantial gainful employment.

(Added by Stats. 1980, Ch. 58.)

31720.3. In determining whether a member is eligible to retire for disability, the board shall not consider medical opinion unless it is deemed competent and shall not use disability retirement as a substitute for the employer's disciplinary process.

(Added by Stats. 2008, Ch. 370, Sec. 4. Effective January 1, 2009.)

31720.4. (a) Notwithstanding subdivision (b) of Section 31720, a member who becomes permanently incapacitated for the performance of duty with his or her employing county or district as a direct consequence and result of injury or disease arising out of, and in the course of, active military service while on military leave from the county or district, shall be retired for nonservice-connected disability regardless of age or years of service.

(b) Notwithstanding any provision to the contrary in Section 31781.3, the surviving spouse of a member who dies as a direct consequence and result of injury or disease arising out of, and in the course of, active military service while on military leave from his or her employing county or district, shall be entitled to the combined benefit under Section 31781.3 regardless of the member's years of service at the time of death.

(c) For the purposes of this section:

- (1) "Active military service" means full-time duty within a branch of the Armed Forces of the United States.

(2) "Military leave" means an authorized leave of absence taken from a member's employing county or district as a result of a member being called to active military service because of his or her position as a reservist or member of the National Guard.

(d) This section shall apply only to the County of Los Angeles and shall not be operative with regard to the county, or a district within the county, until the board of supervisors of the county, or the governing body of the district, elects, by resolution adopted by a majority vote, to make this section operative. The adoption of a resolution making this section operative shall not create a vested right with respect to any member prior to the member's retirement or death. The board of supervisors or the governing body of the district may repeal or amend the resolution at any time, except to the extent that it would affect a member who is retired or is deceased at the time of the repeal or amendment.

(Added by Stats. 2010, Ch. 83, Sec. 1. (AB 1739) Effective January 1, 2011.)

31720.5. (a) If a safety member, a firefighter member, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200) or both or under this retirement system or under the State Employees' Retirement System or under a retirement system established under this chapter in another county, and develops heart trouble, that heart trouble developing or manifesting itself in those cases shall be presumed to arise out of and in the course of employment. That heart trouble developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to such development or manifestation.

(b) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the board is bound to find in accordance with the presumption.

(c) As used in this section, "firefighter member" includes a member engaged in active fire suppression who is not classified as a safety member.

(d) As used in this section, "member in active law enforcement" includes a member engaged in active law enforcement who is not classified as a safety member.

(e) The presumption described in subdivision (a) shall additionally apply to a firefighter member or member in active law enforcement following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not exceed 60 months regardless of the member's length of service, commencing with the last date that member actually worked as a firefighter member or member in active law enforcement.

(Amended by Stats. 2023, Ch. 554, Sec. 1. (AB 1020) Effective January 1, 2024.)

31720.6. (a) If a safety member, a firefighter, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200) or both or under this retirement system or under the Public Employees' Retirement System or under a retirement system established under this chapter in another county, and develops cancer, the cancer so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of employment. The cancer so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.

(b) Notwithstanding the existence of nonindustrial predisposing or contributing factors, any safety member, firefighter member, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of cancer shall receive a service-connected disability retirement if the member demonstrates that he or she was exposed to a known carcinogen as a result of performance of job duties.

"Known carcinogen" for purposes of this section means those carcinogenic agents recognized by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations.

(c) The presumption is disputable and may be controverted by evidence, that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer, provided that the primary site of the cancer has been established. Unless so controverted, the board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(d) "Firefighter," for purposes of this section, includes a member engaged in active fire suppression who is not classified as a safety member.

(e) "Member in active law enforcement," for purposes of this section, includes a member engaged in active law enforcement who is not classified as a safety member.

(Amended by Stats. 2000, Ch. 317, Sec. 2. Effective January 1, 2001.)

31720.7. (a) If a safety member, a firefighter, a county probation officer, or a member in active law enforcement develops a blood-borne infectious disease or a methicillin-resistant *Staphylococcus aureus* skin infection, the disease or skin infection so developing or manifesting itself in those cases shall be presumed to arise out of, and in the course of, employment. The blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection so developing or manifesting itself in those cases shall in no case be attributed to any disease or skin infection existing prior to that development or manifestation.

(b) Any safety member, firefighter, county probation officer, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of a blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection shall receive a service-connected disability retirement.

(c) (1) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the board is bound to find in accordance with the presumption.

(2) The blood-borne infectious disease presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(3) Notwithstanding paragraph (2), the methicillin-resistant *Staphylococcus aureus* skin infection presumption shall be extended to a member following termination of service for a period of 90 days commencing with the last day actually worked in the specified capacity.

(d) "Blood-borne infectious disease," for purposes of this section, means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic microorganisms defined as blood-borne pathogens by the Department of Industrial Relations.

(e) "Member in active law enforcement," for purposes of this section, means members employed by a sheriff's office, by a police or fire department of a city, county, city and county, district, or by another public or municipal corporation or political subdivision or who are described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or who are employed by any county forestry or firefighting department or unit, except any of those members whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers, and includes a member engaged in active law enforcement who is not classified as a safety member.

(Amended by Stats. 2008, Ch. 684, Sec. 1. Effective January 1, 2009.)

31720.9. (a) If a peace officer member, as defined in Sections 830.1 to 830.5, inclusive, of the Penal Code, or firefighter member, with service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200), or both, or under this retirement system, under the Public Employees' Retirement System, or under a retirement system established under this chapter in another county, becomes ill or dies due to exposure to a biochemical substance, the illness that develops or manifests itself in those cases shall be presumed to arise out of, and in the course of, employment. The illness that develops or manifests itself in those cases shall in no case be attributed to any illness existing prior to that development or manifestation.

(b) Any peace officer member or firefighter member, as described in subdivision (a), who becomes permanently incapacitated as a result of exposure to a biochemical substance shall receive a service-connected disability retirement.

(c) The presumption described in subdivision (a) is rebuttable by other evidence. Unless rebutted, the board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(d) For purposes of this section, a peace officer member or firefighter member, as described in subdivision (a), does not include a member whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers.

(e) "Biochemical substance" means any biological or chemical agent that may be used as a weapon of mass destruction, including, but not limited to, any chemical warfare agent, weaponized biological agent, or nuclear or radiological agent, as these terms are defined in Section 11417 of the Penal Code.

(Added by Stats. 2002, Ch. 870, Sec. 1. Effective January 1, 2003.)

31720.91. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For purposes of this section:

(1) "Injury" means "post-traumatic stress disorder," as diagnosed according to the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and that develops or manifests itself during a period while a member is in the service of a department, office, or unit, consistent with paragraph (2).

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3212.15 of the Labor Code.

(d) The presumption described in subdivision (a) shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not to exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

(e) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

(Amended by Stats. 2024, Ch. 117, Sec. 8. (AB 2770) Effective January 1, 2025. Repealed as of January 1, 2029, by its own provisions.)

31720.92. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For purposes of this section:

(1) "Injury" means tuberculosis that develops or manifests itself during a period while a member is in the service of a department, office, or unit, consistent with paragraph (2).

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3212.6 of the Labor Code.

(d) The presumption described in subdivision (a) shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

(Added by Stats. 2023, Ch. 554, Sec. 3. (AB 1020) Effective January 1, 2024.)

31720.93. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For the purpose of this section:

(1) "Injury" means meningitis that develops or manifests itself during a period while a member is in the service of a department, office, or unit, consistent with paragraph (2).

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3212.9 of the Labor Code.

(d) The presumption described in subdivision (a) shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

(Added by Stats. 2023, Ch. 554, Sec. 4. (AB 1020) Effective January 1, 2024.)

31720.94. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For the purpose of this section:

(1) "Injury" means skin cancer that develops or manifests itself during a period while a member is in the service of that department, office, or unit, consistent with paragraph (2).

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3212.11 of the Labor Code.

(d) This section shall only apply to a member employed for 3 consecutive months in a calendar year in a job classification listed in paragraph (2) of subdivision (c).

(e) The presumption described in subdivision (a) shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

(Added by Stats. 2023, Ch. 554, Sec. 5. (AB 1020) Effective January 1, 2024.)

31720.95. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For the purpose of this section:

(1) "Injury" means Lyme disease that develops or manifests itself during a period while a member is in the service of a department, office, or unit, consistent with paragraph (2).

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3212.12 of the Labor Code.

(d) The presumption described in subdivision (a) shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

(Added by Stats. 2023, Ch. 554, Sec. 6. (AB 1020) Effective January 1, 2024.)

31720.96. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For the purpose of this section:

(1) "Injury" means lower back impairments that develop or manifest itself during a period while a member is in the service of a department, office, or unit, consistent with paragraph (2).

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3213.2 of the Labor Code.

(d) This section shall apply to a member who has been employed for at least five years on a full-time basis in the classification specified in paragraph (2) of subdivision (c) and has been required to wear a duty belt as a condition of employment.

(e) This presumption shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

(Added by Stats. 2023, Ch. 554, Sec. 7. (AB 1020) Effective January 1, 2024.)

31720.97. (a) For purposes of a member who retires for disability from a system established under this chapter on the basis of being permanently incapacitated from the performance of their usual and customary duties because of an injury, as described in paragraph (1) of subdivision (c), it shall be presumed that the disability arose out of, or in the course of, the member's employment.

(b) The presumption described in subdivision (a) may be rebutted by evidence to the contrary, but unless controverted, the board shall be bound to find in accordance with the presumption.

(c) For the purpose of this section:

(1) "Injury" means hernia or pneumonia.

(2) "Member" means a member of a public retirement system, established under this chapter, whose job classification is listed in Section 3212 of the Labor Code.

(d) This presumption shall additionally apply to a member following termination of service for a period of 3 calendar months for each full year of the requisite service, but shall not exceed 60 months regardless of the member's length of service, commencing with the last date the member actually worked in the classification specified in paragraph (2) of subdivision (c).

(Added by Stats. 2023, Ch. 554, Sec. 8. (AB 1020) Effective January 1, 2024.)

31721. (a) A member may be retired for disability upon the application of the member, the head of the office or department in which he is or was last employed, the board or its agents, or any other person on his behalf, except that an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any eligible member believed to be disabled, unless the member waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain in the fund with rights to service retirement as provided in Article 9 (commencing with Section 31700).

(b) When a member appeals from a separation for disability, disputing the employer's assertion or assumption that he is not eligible for disability retirement, the official, entity other than the board, or court to whom appealed shall transfer the proceedings to the board for determination of the eligibility and of disability if so eligible.

The appointing authority shall have the burden of proving disability. Thereafter, the appellant shall have the burden of proving job causation.

This subdivision shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions applicable in that county.

(Amended by Stats. 1981, Ch. 1158, Sec. 1.)

31722. The application shall be made while the member is in service, within four months after his or her discontinuance of service, within four months after the expiration of any period during which a presumption is extended beyond his or her discontinuance of service, or while, from the date of discontinuance of service to the time of the application, he or she is continuously physically or mentally incapacitated to perform his or her duties.

(Amended by Stats. 2000, Ch. 317, Sec. 3. Effective January 1, 2001.)

31723. The board may require such proof, including a medical examination at the expense of the member, as it deems necessary or the board upon its own motion may order a medical examination to determine the existence of the disability.

(Added by Stats. 1947, Ch. 424.)

31724. If the proof received, including any medical examination, shows to the satisfaction of the board that the member is permanently incapacitated physically or mentally for the performance of his duties in the service, it shall retire him effective on the expiration date of any leave of absence with compensation to which he shall become entitled under the provisions of Division 4 (commencing with Section 3201) of the Labor Code or effective on the occasion of the member's consent to retirement prior to the expiration of such leave of absence with compensation. His disability retirement allowance shall be effective as of the date such application is filed with the board, but not earlier than the day following the last day for which he received regular compensation. Notwithstanding any other provision of this article, the retirement of a member who has been granted or is entitled to sick leave shall not become effective until the expiration of such sick leave with compensation unless the member consents to his retirement at an earlier date.

When it has been demonstrated to the satisfaction of the board that the filing of the member's application was delayed by administrative oversight or by inability to ascertain the permanency of the member's incapacity until after the date following the day for which the member last received regular compensation, such date will be deemed to be the date the application was filed.

(Amended by Stats. 1974, Ch. 9.)

31725. Permanent incapacity for the performance of duty shall in all cases be determined by the board.

If the medical examination and other available information do not show to the satisfaction of the board that the member is incapacitated physically or mentally for the performance of his duties in the service and the member's application is denied on this ground the board shall give notice of such denial to the employer. The employer may obtain judicial review of such action of the board by filing a petition for a writ of mandate in accordance with the Code of Civil Procedure or by joining or intervening in such action filed by the member within 30 days of the mailing of such notice. If such petition is not filed or the court enters judgment

denying the writ, whether on the petition of the employer or the member, and the employer has dismissed the member for disability the employer shall reinstate the member to his employment effective as of the day following the effective date of the dismissal.

(Amended by Stats. 1970, Ch. 1016.)

31725.5. If the board finds, on medical advice, that a member in county employment, although incapacitated for the performance of his duties, is capable of performing other duties in the service of the county, the member shall not be entitled to a disability retirement allowance if any competent authority in accordance with any applicable civil service or merit system procedures offers and he accepts a transfer, reassignment, or other change to a position with duties within his capacity to perform with his disability. If this new position returns to the member compensation less than that of the position from which he was disabled, the board, in lieu of a disability retirement allowance, shall pay him the difference in such compensation until the compensation of the new position equals or exceeds the compensation (including later changes) of the former position, but such amount shall not exceed the amount to which he would otherwise be entitled as a disability retirement allowance. Such payments in lieu of disability retirement allowance shall be considered as a charge against county advance reserve for current service.

If a new position cannot be arranged at the time of eligibility for disability retirement allowance, such disability retirement allowance to which the member is entitled under this article shall be paid until such time as a new position is available and accepted.

If a disability retirement allowance is paid and the member later accepts such a new position, the period while on disability retirement shall not be considered as breaking the continuity of service and his rate of contributions shall be based on the same age as it was at the date of disability. The member's accumulated contributions shall be the same as at the date his disability retirement began less the amount charged to his accumulated normal contributions.

Nothing in this section shall be construed to require a member to accept reassignment or transfer in lieu of a disability retirement allowance.

The provisions of this section become effective in any county only when the board of supervisors adopts an ordinance providing for their implementation by the board of retirement which may include application to persons retired for disability before such effective date.

The provisions of this section shall only apply to members eligible to retire for nonservice-connected disability.

(Amended by Stats. 1980, Ch. 720.)

31725.6. (a) When the board finds, based on medical advice, that a member in county service is incapacitated for the performance of the member's duties, the board shall determine, based upon that medical advice, whether the member is capable of performing other duties. If the board determines that a member, although incapacitated for the performance of the member's duties, is capable of performing other duties, the board shall inform the appropriate agency in county service of its findings and request that the agency immediately initiate a suitable rehabilitation program for the member pursuant to Section 139.5 of the Labor Code, whereby the member could become qualified for assignment to a position in county service consistent with the rehabilitation program.

(b) When the appropriate agency in county service receives such a request from the board, the agency shall immediately refer the member to a qualified rehabilitation representative for vocational evaluation. During the course of the evaluation, the rehabilitation representative shall consult with the appropriate agency in county service to determine what position, if any, in county service would be compatible with the member's aptitudes, interests, and abilities and whether rehabilitation services will enable the member to become qualified to perform the duties of the position.

(c) Upon completion of the vocational evaluation of the member, the rehabilitation representative shall develop a suitable rehabilitation plan and submit the plan for concurrence by the member and the appropriate agency in county service and, thereafter, the agency shall forward the plan to the Division of Industrial Accidents for approval pursuant to Section 139.5 of the Labor Code.

(d) Upon receipt of approval of the rehabilitation plan, the appropriate agency in county service shall notify the board that the agency is either proceeding to implement an approved rehabilitation plan that will qualify the member for a position in county service specified in the plan or is unable to provide a position in county service compatible with the approved rehabilitation plan.

(e) Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the member shall not be paid the disability retirement allowance to which the member would otherwise be entitled during the entire period that the member remains in county service. However, if the compensation rate of the position specified in the approved rehabilitation plan is less than the compensation rate of the position for which the member was incapacitated, the board shall, in lieu of the disability retirement allowance, pay to the member a supplemental disability allowance in an amount equal to the difference between the compensation rate of the position for which the member was incapacitated, applicable on the date of the commencement of service by the member in the position specified in the approved rehabilitation plan, and the compensation rate of the position specified in the plan, applicable on the same date. The supplemental disability allowance shall be adjusted annually to equal the difference between the current compensation rate of the position for which the member was incapacitated and the current compensation of the position specified in the approved rehabilitation plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of the payments shall not be greater than the disability retirement allowance to

which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all of these payments received by a member shall be considered as a part of the member's compensation within the meaning of Section 31460.

(f) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved rehabilitation plan, and the member has commenced service in that position, the disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved rehabilitation plan, the period during which the member was receiving disability retirement payments shall not be considered as breaking the continuity of the member's service, and the rate of the member's contributions shall continue to be based on the same age at entrance into the retirement system as the member's rates were based on prior to the date of the member's disability. The member's accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(g) Notwithstanding Section 31560, a member whose principal duties, while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved rehabilitation plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(h) If, within one year from the date that the member has been eligible for a disability retirement allowance, the appropriate agency in county service has offered to the member, in writing, the position specified in the rehabilitation plan which had previously been concurred, in writing, by the member and approved by the Division of Industrial Accidents pursuant to Section 139.5 of the Labor Code, the member shall, within 30 days of receipt of the notice, report for duty at the location specified in the notice. If the member refuses to report for duty within the time specified, the appropriate agency in county service may apply to the board to have the member's allowance discontinued. The board shall be authorized to discontinue the member's disability retirement allowance if based upon substantial evidence of the refusal of the member to report to work without reasonable cause. However, the board shall not be authorized to impair any other of the rights or retirement benefits to which the member would otherwise be entitled.

(i) This section shall apply only to members who were incapacitated for the performance of the member's duties prior to January 1, 2004, and who are eligible to retire for service-connected disability.

(Amended by Stats. 2004, Ch. 379, Sec. 1. Effective August 30, 2004.)

31725.65. (a) When the board finds, based on medical advice, that a member in county service is incapacitated for the performance of the member's duties, the board shall determine, based upon that medical advice, whether the member may be capable of performing other duties. If the board determines that a member, although incapacitated for the performance of the member's duties, is capable of performing other duties, the board shall notify the appropriate agency in county service of its findings.

(b) When the appropriate agency in county service receives that notification from the board, the agency shall immediately inform the member of any vacant county positions that may be suitable for the member, consistent with his or her disability, and shall consult with the member in an effort to develop a reemployment plan that shall identify what position, if any, in county service would be compatible with the member's aptitudes, interests, and abilities.

(c) Upon approval by the member of the reemployment plan, the appropriate agency in county service shall notify the board that the agency is proceeding to implement the approved reemployment plan.

(d) Upon commencement of service by the member in the position specified in the approved reemployment plan, the member shall not be paid the disability retirement allowance to which the member would otherwise be entitled during the entire period that the member remains in county service. However, if the compensation rate of the position specified in the approved reemployment plan is less than the compensation rate of the position for which the member was incapacitated, the board shall, in lieu of the disability retirement allowance, pay to the member a supplemental disability allowance in an amount equal to the difference between the compensation rate of the position for which the member was incapacitated, applicable on the date of the commencement of service by the member in the position specified in the approved reemployment plan, and the compensation rate of the position specified in the plan, applicable on the same date. The supplemental disability allowance shall be adjusted annually to equal the difference between the current compensation rate of the position for which the member was incapacitated and the current compensation of the position specified in the approved reemployment plan. The supplemental disability allowance payments shall commence upon suspension of the disability retirement allowance and the amount of the payments shall not be greater than the disability retirement allowance to which the member would otherwise be entitled. Supplemental disability allowance payments made pursuant to this section shall be considered as a charge against the county advance reserve for current service, and all of these payments received by a member shall be considered as a part of the member's compensation within the meaning of Section 31460.

(e) From the time that the member is eligible to receive a disability retirement allowance until the appropriate agency is able to provide the position in county service specified in the approved reemployment plan, and the member has commenced service in that position, the disability retirement allowance to which the member is entitled under this article shall be paid. Upon commencement of service by the member in the position specified in the approved reemployment plan, the period during which the member was

receiving disability retirement payments shall not be considered as breaking the continuity of the member's service, and the rate of the member's contributions shall continue to be based on the same age at entrance into the retirement system on which the member's rates were based prior to the date of the member's disability. The member's accumulated contributions shall not be reduced as a result of the member receiving the disability retirement payments, but shall be increased by the amount of interest that would have accrued had the member not been retired.

(f) Notwithstanding Section 31560, a member whose principal duties, while serving in the position for which the member was incapacitated, consisted of activities defined in Section 31469.3 shall, upon commencement of service by the member in the position specified in the approved reemployment plan, continue to be considered as satisfying the requirements of Section 31560, notwithstanding the actual duties performed during the entire period that the member remains in county service.

(g) This section shall apply only to members who are incapacitated for the performance of the member's duties on or after January 1, 2004, and who are eligible to retire for service-connected disability.

(Amended by Stats. 2005, Ch. 22, Sec. 90. Effective January 1, 2006.)

31725.7. (a) Except as provided in subdivision (b), at any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of their entitlement to disability retirement. If the member is found to be eligible for disability retirement, appropriate adjustments shall be made in their retirement allowance retroactive to the effective date of their disability retirement as provided in Section 31724.

(b) Notwithstanding subdivision (a), this section shall also apply to a member retired for service who subsequently files an application for disability retirement with the board. If the member retired for service is found to be eligible for disability retirement, appropriate adjustments shall be made in their retirement allowance retroactive to the effective date of their disability retirement, as provided in Section 31724.

(c) This section shall not be construed to authorize a member to receive more than one type of retirement allowance for the same period of time nor to entitle any beneficiary to receive benefits that the beneficiary would not otherwise have been entitled to receive under the type of retirement that the member is finally determined to have been entitled. In the event a member retired for service is found not to be entitled to disability retirement, they shall not be entitled to return to their job as provided in Section 31725.

(d) If the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary shall be as selected by the member at the time of retirement for service. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall also be binding as to the type of allowance the member receives if the member is awarded a disability retirement.

(e) Notwithstanding subdivision (d), if the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary may be as selected by the member at the time of retirement for service, or as if the member had selected an unmodified allowance. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall not be binding as to the type of allowance the member receives if the member is awarded a disability retirement. A change to the optional or unmodified type of allowance shall be made only at the time a member is awarded a disability retirement and the change shall be retroactive to the service retirement date and benefits previously paid shall be adjusted. If a change to the optional or unmodified type of allowance is not made, the benefit shall be adjusted to reflect the differences in retirement benefits previously received. This subdivision shall only apply to members who retire on or after January 1, 1999.

(Amended by Stats. 2023, Ch. 159, Sec. 14. (SB 885) Effective January 1, 2024.)

31725.8. If any applicant for service-connected disability retirement is found by the board to be permanently physically or mentally incapacitated for the performance of his duties but not because of injury or disease arising out of and in the course of his employment, he may apply for, and the board in its discretion may grant, a non-service-connected disability retirement allowance while he is pursuing any rehearing before the board or judicial review concerning his right to service-connected disability retirement. If his disability is finally determined to have been service-connected, appropriate adjustments shall be made in his retirement allowance retroactive to the effective date of his disability retirement.

If any member dies after electing to receive non-service-connected disability retirement and before the question of his entitlement to service-connected disability retirement is finally resolved, the rights of his beneficiary shall be those selected by the member at the time he elected to receive non-service-connected disability retirement.

(Added by Stats. 1976, Ch. 1209.)

31726. (a) Upon retirement for nonservice-connected disability, a member who has attained 65 years of age shall receive their service retirement allowance.

(b) Every member under 65 years of age who is retired for nonservice-connected disability and who is not simultaneously retired as a member on deferred retirement of the Public Employees' Retirement System or a retirement system established under this chapter

in another county shall receive a disability retirement allowance, which shall be the greater of the following:

- (1) The sum to which the member would be entitled as service retirement; or
- (2) A sum that shall consist of any of the following:
 - (A) An annuity that is the actuarial equivalent of the member's accumulated contributions at the time of retirement.
 - (B) If, in the opinion of the board, the member's disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on the member's part, a disability retirement pension purchased by contributions of the county or district.
 - (C) If, in the opinion of the board, the member's disability is not due to conviction of a felony or criminal activity that caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district. This subparagraph shall only apply to a person who becomes a member of the system on or after January 1, 1988.

(Amended by Stats. 2023, Ch. 159, Sec. 15. (SB 885) Effective January 1, 2024.)

31726.5. (a) Upon retirement for nonservice-connected disability a safety member who has attained age 55 shall receive their service retirement allowance.

(b) Every safety member under age 55 who is retired for nonservice-connected disability and who is not simultaneously retired as a member on deferred retirement of the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of:

- (1) The sum to which the member would be entitled to as service retirement; or
- (2) A sum which shall consist of:
 - (A) An annuity which is the actuarial equivalent of the member's accumulated contributions at the time of retirement.
 - (B) If, in the opinion of the board, the member's disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on the member's part, a disability retirement pension purchased by contributions of the county or district.
 - (C) If, in the opinion of the board, the member's disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district.

This subparagraph shall only apply to a person who becomes a member of the association on or after January 1, 1988.

(Amended by Stats. 2022, Ch. 231, Sec. 13. (AB 1824) Effective January 1, 2023.)

31727. The non-service-connected disability retirement pension shall be such an amount as with that portion of his annuity provided by his accumulated normal contributions will make his disability retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal:

- (a) Ninety percent of one-sixtieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement system in order to be eligible to retire or (2) such disability retirement allowance exceeds one-third of his final compensation.
- (b) If the member is eligible to retire without relying upon service in another retirement system, and the disability retirement allowance computed under (a) does not exceed one-third of his final compensation, 90 percent of one-sixtieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 65, but in such case the retirement allowance shall not exceed one-third of his final compensation.

(Amended by Stats. 1961, Ch. 1695.)

31727.01. Notwithstanding Sections 31727 and 31727.4, if the member is eligible to retire without relying upon service in another retirement system, the disability retirement pension of a member covered under Section 31751 shall be such an amount as with that portion of the member's annuity provided by the member's accumulated normal contributions will make the member's disability retirement allowance, exclusive of the annuity provided by the member's accumulated additional contributions, equal 40 percent of the member's final compensation as defined in Section 31462.

In addition to the above disability allowance, 10 percent of the member's final compensation shall be paid on behalf of each of the member's children up to a maximum of three children.

As used in this section, "child" means a member's child who is dependent upon such member at the time of the member's disability and while such child is unmarried and:

- (a) Under 18 years of age, or
- (b) Whether under or over 18 years of age, totally disabled and such disability occurred prior to such child attaining the age of 18 years, or
- (c) Eighteen years of age or over, but has not attained the age of 22 years, and is enrolled as a full-time student in an accredited school, as determined by the board.

If the member is required to rely upon service in another retirement system to be eligible to retire, the above disability retirement pension and children's allowance shall be multiplied by one-tenth times the years of service.

Disability benefits shall be offset by the amounts of disability payments from other plans of the county and other governmental plans, except workers' compensation and federal social security payments.

(Added by Stats. 1980, Ch. 58.)

31727.1. In counties adopting Section 31676.12, a member upon retirement for non-service-connected disability, who has attained age 62, shall receive his service retirement allowance.

The non-service-connected disability retirement pension for a member under age 62 shall be such an amount as with that portion of a member's annuity provided by his accumulated normal contributions will make his disability retirement allowance equal:

- (a) Ninety percent of one-fiftieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement system in order to be eligible to retire or (2) such disability retirement allowance exceeds one-third of his final compensation.
- (b) If the member is eligible to retire without relying upon service in another retirement system and the disability retirement allowance computed under subdivision (a) does not exceed one-third of his final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 62, but in such case the retirement allowance shall not exceed one-third of his final compensation.

The amendments to this section during the 1975–76 Regular Session of the Legislature shall not apply in any county until adopted by majority vote of the county supervisors of that county.

(Amended by Stats. 1976, Ch. 36.)

31727.2. The non-service-connected disability retirement pension for a safety member shall be such an amount as with that portion of his annuity provided by his accumulated normal contributions, will make his disability retirement allowance equal:

- (a) Ninety percent of one-fiftieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement system in order to be eligible to retire or (2) such disability retirement allowance exceeds one-third of his final compensation.
- (b) If the member is eligible to retire without relying upon service in another retirement system, and the disability retirement allowance computed under (a) does not exceed one-third of his final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 55, but in such case the retirement allowance shall not exceed one-third of his final compensation.

(Amended by Stats. 1961, Ch. 1695.)

31727.3. In counties adopting Section 31676.15, the non-service-connected disability retirement pension shall be such an amount as with that portion of a member's annuity provided by his accumulated normal contributions will make his disability retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal:

- (a) Ninety percent of one-fiftieth of his final compensation multiplied by the number of years of service credited to him, if (1) the member must rely upon service in another retirement system in order to be eligible to retire, or (2) such disability retirement allowance exceeds one-third of his final compensation.
- (b) If the member is eligible to retire without relying upon service in another retirement system and the disability retirement allowance computed under subdivision (a) does not exceed one-third of his final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age 65, but in such case the retirement allowance shall not exceed one-third of his final compensation.

(Added by Stats. 1975, Ch. 899.)

31727.4. Upon retirement of any member for service-connected disability, he shall receive an annual retirement allowance payable in monthly installments, equal to one-half of his final compensation. Notwithstanding any other provisions of this chapter, any

member upon retirement for service-connected disability shall receive a current service pension or a current service pension combined with a prior service pension purchased by the contributions of the county or district sufficient which when added to the service retirement annuity will equal one-half of his final compensation, or, if qualified for a service retirement, he shall receive his service retirement allowance if such allowance is greater but in no event shall it exceed the limitation as set forth in Section 31676.1 as it now reads or may hereafter be amended to read. The provisions of this section shall also apply to any employee who becomes disabled for service-connected causes prior to the first day of the calendar month when he would normally become a member.

(Amended by Stats. 1959, Ch. 1190.)

31727.5. The board of supervisors in any county, by a majority vote, may enact an ordinance providing that the maximum annual allowance payable to a member pursuant to Section 31727.4 who is totally disabled shall be increased to 60, 70, 80, or 90 percent of the member's final compensation, as determined by the board, on the operative date of such ordinance.

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

(Added by Stats. 1974, Ch. 1394.)

31727.6. Every retirement allowance payable for time commencing on the effective date of this section to or on account of any member of this system who was retired for service-connected disability prior to September 11, 1957, shall be calculated pursuant to the provisions of Section 31727.4.

(Added by Stats. 1959, Ch. 1183.)

31727.7. Upon retirement for nonservice-connected disability, in lieu of any other allowance, a member who has five years or more credited service shall receive a disability allowance equal to the percentage of final compensation set forth opposite the member's number of years of credited service in the following table:

	Percentage of
Years of credited service:	final compensation:
Five years, but less than six years	20.0
Six years, but less than seven years	22.0
Seven years, but less than eight years	24.0
Eight years, but less than nine years	26.0
Nine years, but less than ten years	28.0
Ten years, but less than eleven years	30.0
Eleven years, but less than twelve years	32.0
Twelve years, but less than thirteen years	34.0
Thirteen years, but less than fourteen years	36.0
Fourteen years, but less than fifteen years	38.0
Fifteen or more years	40.0

This section shall only apply to the following persons:

- (a) Persons who become members of the retirement system after the operative date of this section in the county.
- (b) Those persons who were members prior to such operative date who, pursuant to a memorandum of understanding with their bargaining unit, elect to be subject to this section on or after such operative date.
- (c) Management and confidential employees and employees not a part of a bargaining unit who were members prior to such operative date and elect to be subject to this section on or after such operative date. The board of supervisors shall prescribe the time period and conditions governing the election.

This section shall not be operative in any county until such time as the board of supervisors by majority vote makes the provisions of this section applicable in such county.

(Amended by Stats. 1981, Ch. 704, Sec. 1.)

31728. If, in the opinion of the board, the disability is due to intemperate use of alcoholic liquor or drugs, wilful misconduct, or violation of law on the part of the member, and his annuity is less than two hundred forty dollars (\$240) a year, the board may pay the member his accumulated contributions in one lump sum in lieu of his annuity.

(Added by Stats. 1947, Ch. 424.)

31728.1. Notwithstanding Section 31728, if, in the opinion of the board, the disability is due to willful misconduct or violation of law on the part of the member covered under Section 31751, and the member's annuity is less than two hundred forty dollars (\$240) a year, the board may pay the member's accumulated contributions in one lump sum in lieu of the member's annuity.

(Added by Stats. 1980, Ch. 58.)

31728.2. Notwithstanding Sections 31728 and 31728.1, if, in the opinion of the board, the disability is due to or results from the conviction of the member of a felony under state or federal law or if the board determines that the criminal activity caused or resulted in the member's disability, the board may pay the member a lump-sum which is equal to the sum of his or her accumulated contributions in lieu of the benefits to which the member would otherwise be entitled as set forth in this article and provided that nothing in this section shall be construed to divest a member of any vested right to a service retirement allowance.

This section shall apply only to a person who becomes a member of the system on or after January 1, 1988.

(Added by Stats. 1987, Ch. 842, Sec. 3.)

31729. The board may require any disability beneficiary under age 55 to undergo medical examination. The examination shall be made by a physician or surgeon appointed by the board at the place of residence of the beneficiary or other place mutually agreed upon. Upon the basis of the examination the board shall determine whether the disability beneficiary is still physically or mentally incapacitated for service in the office or department of the county or district where he was employed and in the position held by him when retired for disability.

(Amended by Stats. 1953, Ch. 789.)

31730. If the board determines that the beneficiary is not incapacitated, and his or her employer offers to reinstate that beneficiary, his or her retirement allowance shall be canceled forthwith, and he or she shall be reinstated in the county service pursuant to the regulations of the county or district for reemployment of personnel.

(Amended by Stats. 1982, Ch. 1533, Sec. 2.)

31731. If any disability beneficiary under age 55 refuses to submit to medical examination, his pension shall be discontinued until his withdrawal of such refusal, and if his refusal continues for one year, his retirement allowance shall be canceled.

(Amended by Stats. 1951, Ch. 1098.)

31732. The board shall secure such medical, investigatory and other service and advice as is necessary to carry out the purpose of this article. Notwithstanding Section 31529, the board may contract with an attorney in private practice for the legal services and advice necessary to carry out the purpose of this article. Notwithstanding Section 31530, the board may contract with a physician in private practice for the medical advice necessary to carry out the purpose of this article. It shall pay for such services and advice such compensation as it deems reasonable.

(Amended by Stats. 2021, Ch. 186, Sec. 16. (SB 634) Effective January 1, 2022.)

31733. If a disability beneficiary is determined by the board to be no longer incapacitated and re-enters the service of a public agency covered by the retirement system under which he retired, his disability retirement allowance shall cease immediately upon such re-entry. If such disability beneficiary again becomes a member of the retirement system, his rate of contribution for future years is that established for his age at the time of his re-entry into the system. His individual account shall be credited with an amount which is the actuarial equivalent of his annuity at that time, as based upon the mortality table adopted by the board of supervisors for disabled lives, less any amount that has been refunded to him under Section 31737. The amount shall not exceed the amount of his accumulated contributions at the time of his retirement for disability. He shall also receive credit for his service as it existed at the time of his disability retirement.

(Amended by Stats. 1961, Ch. 1852.)

31737. If the retirement allowance of any disability beneficiary is canceled for any cause other than under Section 31733, he shall be paid his accumulated contributions, less the annuity payments made to him.

(Amended by Stats. 1961, Ch. 1852.)

31738. Each payment of a retirement allowance, after the effective date of this section, to a beneficiary who retired prior to September 20, 1947, shall be calculated according to the provisions of this chapter as they existed on September 20, 1947.

(Added by Stats. 1949, Ch. 448.)

31739. Every retirement allowance payable for time commencing on the effective date of this section to or on account of any member of this system or of a superseded system, who was retired for disability prior to January 1, 1948, is hereby increased by twenty-five dollars (\$25) per month if the retired member is entitled to be credited with 20 years or more of service, or, if the retired member is entitled to be credited with less than 20 years of service, by an amount which bears the same ratio to twenty-five dollars (\$25) as the member's completed years of service with which the member is entitled to be credited bears to 20 years.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1963, Ch. 818.)

31739.2. Every retirement allowance for time commencing on the effective date of this section to or on account of any member of this system or of a superseded system, who was retired for disability on or after January 1, 1948, but prior to February 1, 1955, or such other date prior to February 1, 1955, as the board of supervisors in any county shall specify by resolution, is hereby increased by twenty-five dollars (\$25) per month if the retired member is entitled to be credited with 20 years or more of service, or, if the retired member is entitled to be credited with less than 20 years of service, by an amount which bears the same ratio to twenty-five dollars (\$25) as the member's completed years of service with which the member is entitled to be credited bears to 20 years.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Amended by Stats. 1963, Ch. 818.)

31739.3. Every retirement allowance payable for time commencing on the effective date of this section to or on account of any member of this system, or of a superseded system, who has been retired for disability, is increased as follows:

Period during which	Percentage of increase in
retirement became	monthly retirement
effective	allowance
On or prior to June 30, 1956	10%
12 months ended June 30, 1957	8%
12 months ended June 30, 1958	6%
12 months ended June 30, 1959	4%
12 months ended June 30, 1960	2%

In no event shall any allowance be increased by an amount greater than fifty dollars (\$50) a month nor less than ten dollars (\$10) a month.

This section shall not be operative in any county until such time as the board of supervisors shall by ordinance adopted by majority vote make the provisions of this section applicable in such county, providing further that an actuarial survey of the system has been made by the adopting county's system prior to the passage of said ordinance.

(Added by Stats. 1961, Ch. 1120.)

31739.31. Every retirement allowance, optional death allowance, or annual death allowance (including an allowance payable to a survivor of a member) payable to or on account of any member of this system or of a superseded system who has been or was retired for disability is increased as follows:

Period during which	Percentage of increase in
retirement became	monthly retirement

effective	allowance
On or prior to June 30, 1962	10%
12 months ended June 30, 1963	8%
12 months ended June 30, 1964	6%
12 months ended June 30, 1965	4%
12 months ended June 30, 1966	2%

In no event shall any allowance be increased by an amount greater than fifty dollars (\$50) a month or less than ten dollars (\$10) a month.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1967, Ch. 892.)

31739.32. Every retirement allowance, optional death allowance, or annual death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system or of a superseded system who has been or was retired for disability is increased as follows:

Period during which	Percentage of increase in
retirement became	monthly retirement
effective	allowance
On or prior to June 30, 1967	10%
12 months ended June 30, 1968	8%
12 months ended June 30, 1969	6%
12 months ended June 30, 1970	4%
12 months ended June 30, 1971	2%

In no event shall any allowance be increased by an amount greater than seventy-five dollars (\$75) a month or less than twenty-five dollars (\$25) a month. A member with credit for 10 or more years of service in the system shall receive not less than twenty-five dollars (\$25) a month.

This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1973, Ch. 298.)

31739.33. (a) Except as provided in subdivision (b), a retirement allowance, optional death allowance, or annual death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system or of a superseded system who has been or was retired for disability which did not on July 1, 1976, exceed five hundred dollars (\$500) per month is hereby increased as follows:

Number of years of	Percentage of increase
county or district	in monthly retirement
service	allowance
25 or more years	10%
20–25 years	8%
15–20 years	6%

(b) No allowance shall be increased to more than five hundred dollars (\$500) per month pursuant to subdivision (a).

This section shall not be operative in a county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

(Amended by Stats. 2008, Ch. 179, Sec. 104. Effective January 1, 2009.)

31739.34. (a) Except as provided in subdivision (b) of this section, a retirement allowance, optional death allowance or annual death allowance, including an allowance payable to a survivor of a member, payable to or on account of any member of this system, or of a superseded system, who retired for disability on or before December 31, 1971, is hereby increased as follows:

Number of Years of	Percentage of Increase in
County or District	Monthly Retirement
Service	Allowance
25 or more years	10%
20–25 years	8%
15–20 years	6%
10–15 years	4%

(b) No allowance shall be increased to more than five hundred dollars (\$500) per month pursuant to subdivision (a) of this section.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.

(Added by Stats. 1980, Ch. 442.)

31739.4. Every retirement allowance payable during the time this section is operative in any county to, or on account of any member of this system or of a superseded system, who has been retired for disability shall be increased by an amount equal to the product one dollar (\$1) times years of service, not to exceed 20 years, times the number in the following table:

Period during which retirement	
became effective	Multiply by
On or prior to June 30, 1957	2
12 months ended June 30, 1958	1.5
12 months ended June 30, 1959	1
12 months ended June 30, 1960	0.5

This section shall not be operative in any county except as follows: The board of supervisors of a county at any time and from time to time may find that economic conditions are such as to require either that this entire section, or this section as applied to one or more categories of members in the above table be applicable in such county. The board of supervisors of such county from time to time may either rescind or modify such finding and either find that economic conditions do not require that this section be applicable at all in such county or be applicable to a greater, lesser, or different extent than previously found. This section or this section as applied to one or more categories of members in the above table, as the case may be, shall be applicable in such county when and only during the time when such finding is in effect. The giving of additional retirement benefits pursuant to this section shall create no additional contractual rights and shall not preclude the withdrawal of such benefits either by action of the board of supervisors or of the Legislature.

(Added by Stats. 1963, Ch. 634.)

31739.5. The provision in Section 31681.8, when adopted or readopted, shall apply to members of this system or a superseded system who retired for disability, except that payments to a member of this system or a superseded system who retired for service-connected disability or to the surviving beneficiary of such member shall be computed on the basis that the member's service had continued to age 60, if a safety member, or age 70, if any other category of member, provided, that this additional service credit shall not exceed 30 years.

31740. In any county which has implemented the provisions of Article 15.6 (commencing with Section 31855), any member who is thereafter retired for disability shall receive a supplemental disability retirement allowance in the sum of three hundred dollars (\$300) per month in addition to any other benefits due under this chapter, provided the member's disability is such that the member is incapable of gainful employment. The board may adopt regulations, including a requirement for periodic declarations of nonemployment, to administer this supplemental allowance.

(Added by Stats. 1974, Ch. 415.)

31751. Notwithstanding any other provision of law:

(a) (1) The Board of Supervisors of Contra Costa County may make this section, Tier Two, applicable to officers and employees of the county, by adopting a resolution specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable as Tier Two to its officers and employees on and after the future operative date it specifies.

(b) Except as otherwise provided in this section, Tier Two shall cover all officers and employees who become members or return to membership in the county on or after April 4, 1980, and in a district on or after the date of its applicability thereto.

(c) (1) This section may not cover any employee who is in, or eligible for, safety membership under this chapter.

(2) This section may not cover any person who is a member of the retirement system in the county or district on the operative date of its application thereto unless and until the person voluntarily in writing irrevocably requests coverage.

(3) This section may not cover any member who does not request coverage, is then laid off, and later returns to membership.

(4) This section may not cover any member who does not request coverage, then becomes a deferred member, and later returns to active membership.

(5) This section may not cover any person referred to in subparagraph (C) of paragraph (2) of subdivision (d) who does not request coverage.

(d) (1) The board of supervisors shall adopt regulations allowing individual county and district employees to irrevocably request coverage under Tier Two.

(2) The regulations shall specify the period during which each person may request coverage.

(A) For persons who are employees on the applicability date of this section, Tier Two, to the county or district, this period may not exceed one year after that date.

(B) For persons not subject to subparagraph (A), who before the Tier Two applicability date chose deferred retirement under Article 9 (commencing with Section 31700) from the county's Tier One retirement system, and who thereafter while still in deferred status returned to active membership, this period may not exceed 90 days after that return.

(C) For persons not subject to subparagraph (A) who enter or reenter employment in the county or the district, for the first time after Tier Two is applicable thereto, with reciprocal rights under Article 15 (commencing with Section 31830), this period may not exceed 90 days after that entry or reentry.

(e) Anyone requesting coverage as provided for in this section, who becomes permanently incapacitated as defined in Section 31720.1, shall be granted a disability allowance under Section 31727.01 if the member has completed five years of service.

(f) This section is intended to, and shall, apply retroactively, from the effective date of the original enactment of Section 31751, April 4, 1980, forward so that its beneficial effects and those of the original enactment are available to all persons covered by this section as though it had been originally enacted in its present form.

(g) Notwithstanding any other provision of law, if a county adopts a resolution pursuant to subdivision (a) of Section 31755.1, this section may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), be made inapplicable to those officers and employees of the county specified in the resolution for service performed on and after the operative date specified in the memorandum of understanding. In that event, this section shall also be inapplicable to nonrepresented employees within similar job classifications as employees in applicable bargaining units and to the supervisors and managers of those employees. If a district adopts a resolution pursuant to

subdivision (a) of Section 31755.1, this section shall be inapplicable to the officers and employees of the district on and after the operative date of the resolution.

(h) No district may make this section applicable to any of its officers or employees on or after the effective date of the act adding this subdivision.

(Amended by Stats. 2002, Ch. 695, Sec. 2. Effective September 18, 2002.)

31752. This section shall apply to members subject to Section 31751. Notwithstanding any other provision of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal, as follows:

(a) The percentage of the member's final compensation, as defined in Section 31462, in the following table set forth in Column (A) opposite the member's age at retirement, taken to the preceding completed quarter year, multiplied by the number of years of service under Section 31751 with which the member is entitled to be credited at retirement, less

(b) The percentage of the member's Primary Insurance Amount to which the member shall be entitled under federal social security, projected to age 62, if the member is less than age 62, or to which the member is now entitled, if the member is at least age 62, set forth in the following table in Column (B) opposite the member's age at retirement, taken to the preceding completed quarter year, multiplied by the number of years of service subject to Section 31751 during which the member was covered by social security while a member of the county retirement association. The maximum number of years used in this calculation shall not exceed 30.

	Percentages	
Age at		
retirement	(A)	(B)
50 .....	.830	.573
50¼ .....	.845	.585
50½ .....	.860	.597
50¾ .....	.875	.609
51 .....	.890	.622
51¼ .....	.905	.635
51½ .....	.920	.648
51¾ .....	.935	.661
52 .....	.950	.675
52¼ .....	.965	.689
52½ .....	.980	.704
52¾ .....	.995	.719
53	1.010	.734
53¼	1.025	.750
53½	1.040	.766
53¾	1.055	.782
54	1.070	.799
54¼	1.085	.816
54½	1.100	.834

54¾	1.115	.853
55	1.130	.872
55¼	1.145	.891
55½	1.160	.911
55¾	1.175	.931
56	1.190	.952
56¼	1.205	.973
56½	1.220	.995
56¾	1.235	1.017
57	1.250	1.040
57¼	1.265	1.064
57½	1.280	1.088
57¾	1.295	1.113
58	1.310	1.139
58¼	1.325	1.165
58½	1.340	1.192
58¾	1.355	1.220
59	1.370	1.249
59¼	1.385	1.279
59½	1.400	1.309
59¾	1.415	1.340
60	1.430	1.372
60¼	1.445	1.405
60½	1.460	1.440
60¾	1.475	1.475
61	1.490	1.511
61¼	1.505	1.548
61½	1.520	1.587
61¾	1.535	1.626
62	1.550	1.667
62¼	1.565	1.667
62½	1.580	1.667
62¾	1.595	1.667

63	1.610	1.667
63¼	1.625	1.667
63½	1.640	1.667
63¾	1.655	1.667
64	1.670	1.667
64¼	1.685	1.667
64½	1.700	1.667
64¾	1.715	1.667
65 and over	1.730	1.667

(Added by Stats. 1980, Ch. 58.)

31755. (a) (1) The Board of Supervisors of Contra Costa County may make this section, Tier Three, applicable to officers and employees for whom it is the governing body, by adopting an ordinance specifying the future operative date of its application.

(2) As used in this section, "Tier One" refers to the retirement plan covering general members not covered by Section 31751.

(3) After the board of supervisors has adopted an ordinance, the governing body of a district not governed by the board of supervisors may make this section applicable as Tier Three to its officers and employees on and after the future operative date it specifies.

(b) Except as otherwise provided in this section, this section shall cover all officers and employees who are members or return to membership in the county's Tier Two retirement system established by Section 31751 on or after the operative date specified in the ordinance adopted pursuant to subdivision (a), and in a district on or after the date of its applicability thereto.

(c) (1) This section shall not cover any employee who is in, or eligible for, Tier One or safety membership under this chapter.

(2) This section shall not cover any person who is a member of the retirement system in the county or district on or after the operative date of its application thereto unless and until the person voluntarily in writing irrevocably elects coverage.

(3) This section shall not be applicable to any eligible member who does not elect coverage, is then laid off or terminates employment, regardless of whether voluntarily or involuntarily, and later returns to membership employment.

(4) This section shall not be applicable to any eligible member who does not elect coverage, then retires or becomes a deferred member, and later returns to active membership.

(5) This section shall not be applicable to any person referred to in subparagraph (D) of paragraph (2) of subdivision (d) who does not elect coverage.

(d) Upon adoption of this section by the board of supervisors, the following provisions shall become applicable:

(1) Subject to the provisions of paragraph (2) of subdivision (d), any qualified individual county or district employee may irrevocably elect coverage under Tier Three.

(2) (A) County or district employees who are members of the county's Tier Two retirement system and who have attained five years' credited service with the county or district on the applicable date of this section, must elect Tier Three coverage in writing within six months after that date.

(B) Persons not subject to subparagraph (A), who thereafter attain five years' credited service in the county's Tier Two retirement system, must elect Tier Three coverage in writing within 90 days after attaining the five years' credited service.

(C) Persons not subject to subparagraph (A) or (B), who, before the Tier Three applicability date, elected deferred retirement under Article 9 (commencing with Section 31700) from the county's Tier Two retirement system, and who had at least five years' credited Tier Two service, and who thereafter while still in deferred status return to active membership, must elect coverage in writing within 90 days after that return.

(D) Persons not subject to subparagraph (A), (B), or (C), who enter or reenter employment in the county or the district for the first time after Tier Three is applicable thereto, and who have reciprocal rights under Article 15 (commencing with Section 31830), and who are otherwise eligible to elect Tier Three by virtue of their Tier Two status and years of retirement credited service must elect Tier Three coverage in writing within 90 days after that entry or reentry.

(e) The board may not grant a disability retirement allowance to a person who has become a Tier Three member except as provided in Section 31720.1. The amount of disability retirement allowances under Tier Three shall be as set forth in Section 31727.01.

(f) Notwithstanding any other provision of this chapter, service retirements under Tier Three shall be governed by the same provisions that govern Tier One retirements in Contra Costa County.

(g) Notwithstanding any other provision of this chapter, Tier Three retired members who have retired for service shall only be entitled to cost-of-living adjustments as provided by the board of supervisors for Tier One retired members pursuant to Article 16.5 (commencing with Section 31830).

(h) Notwithstanding any other provision of this chapter, Tier Three retired members who have been retired for disability shall only be entitled to cost-of-living adjustments as provided by the board of supervisors for Tier Two retired members pursuant to Article 16.5 (commencing with Section 31830).

(i) The board of supervisors may adopt regulations to implement the provisions of this section.

(Amended by Stats. 2005, Ch. 22, Sec. 91. Effective January 1, 2006.)

31755.1. Notwithstanding any other provision of law:

(a) (1) The Board of Supervisors of Contra Costa County may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), adopt a resolution making this section applicable to the officers and employees of the county specified in the resolution and specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable to its officers and employees by adopting a resolution specifying the future operative date of its application, which date may not be earlier than the operative date of the resolution described in paragraph (1).

(b) (1) Except as otherwise provided in this section, Tier Three, as described in Section 31755, shall apply to all officers and employees who become members or return to membership in the county or district, and with respect to service performed, on or after the date this section becomes applicable in the county or district.

(2) On the date this section becomes applicable in the county or district, those officers and employees specified in the resolution described in subdivision (a) and then-subject to Tier Two shall thereafter be covered by Tier Three, as described in Section 31755, for service performed on and after that date.

(c) This section may not apply to an employee for any service performed while he or she is a safety member under this chapter or is subject to Tier One, as described in Section 31755.

(d) The benefit formula set forth in Section 31752 shall apply to the Tier Two service with which a member is entitled to be credited at retirement.

(e) If the county adopts a resolution pursuant to subdivision (a), this section shall apply equally to any nonrepresented employees in similar job classifications as employees within applicable bargaining units and to the supervisors and managers of those employees.

(Added by Stats. 2002, Ch. 695, Sec. 3. Effective September 18, 2002.)

31755.2. Notwithstanding any other provision of law:

(a) (1) The Board of Supervisors of Contra Costa County may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), adopt a resolution making this section applicable to the officers and employees of the county specified in the resolution and specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable to its officers and employees by adopting a resolution specifying the future operative date of its application, which date may not be earlier than the operative date of the resolution described in paragraph (1).

(b) Notwithstanding any other provision of law, the benefit formula set forth in Section 31676.16 shall apply to the Tier Three service with which a member, who retires on or after the date this section becomes applicable in the county or district, is entitled to be credited and for which the member has paid Tier Three member contributions.

(c) Notwithstanding any other provision of law, Section 31676.16 does not apply to any periods of service performed as Tier Two service under Section 31751, except to the extent that Tier Three service credit is purchased by or on behalf of the member for those periods.

(d) If the county adopts a resolution pursuant to subdivision (a), this section shall apply equally to any nonrepresented employees in similar job classifications as employees within applicable bargaining units and to the supervisors and managers of those employees.

(Added by Stats. 2002, Ch. 695, Sec. 4. Effective September 18, 2002.)

31755.3. Notwithstanding any other provision of law:

(a) (1) The Board of Supervisors of Contra Costa County may, pursuant to a memorandum of understanding in accordance with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1), adopt a resolution making this section applicable to the officers and employees of the county specified in the resolution and specifying the future operative date of its application.

(2) After the board of supervisors has adopted that resolution, the governing body of a district may make this section applicable to its officers and employees by adopting a resolution specifying the future operative date of its application, which date may not be earlier than the operative date of the resolution described in paragraph (1).

(b) The benefit formula set forth in Section 31676.16 shall apply to the Tier One service with which a member is entitled to be credited at retirement. As used in this section, "Tier One" shall have the meaning set forth in Section 31755.

(c) If the county adopts a resolution pursuant to subdivision (a), this section shall apply equally to any nonrepresented employees in similar job classifications as employees within applicable bargaining units and to the supervisors and managers of those employees.

(Added by Stats. 2002, Ch. 695, Sec. 5. Effective September 18, 2002.)

31755.4. (a) The Board of Supervisors of Contra Costa County may, by adopting an ordinance, make this section applicable to officers and employees for whom the board is the governing body.

(b) This section shall not apply to any officer or employee who is a safety member.

(c) Notwithstanding any other law, members whose benefits are determined under Section 7522.20 shall be eligible for a disability retirement allowance under the same terms and conditions provided in Section 31755 for members covered by Tier Three. The board may not grant a disability retirement allowance to a member whose benefits are determined under Section 7522.20 except as provided in Section 31720.1. The amount of the disability retirement allowance for a member whose benefits are determined under Section 7522.20 shall be as set forth in Section 31727.01.

(d) Notwithstanding any other law, members whose benefits are determined under Section 7522.20 who have been retired for disability shall be eligible for cost-of-living adjustments under the same terms and conditions provided in subdivision (h) of Section 31755 for members covered by Tier Three who have been retired for disability.

(e) This section shall apply only in Contra Costa County.

(Added by Stats. 2016, Ch. 123, Sec. 1. (AB 1692) Effective January 1, 2017.)