



|      |                  |                |              |                 |                  |              |  |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|--|
| Home | Bill Information | California Law | Publications | Other Resources | My Subscriptions | My Favorites |  |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|--|

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**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 2.1. Additional Plan for Counties of the First Class [31510 - 31510.4]** ( Article 2.1 added by Stats. 1989, Ch. 1300, Sec. 1. )

**31510.** (a) This article shall be applicable to all members of the retirement system of any county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

(b) The purpose of this article is to provide a defined contribution plan which, in conjunction with retirement benefit provisions otherwise contained in this chapter, will provide approximately the same level of retirement benefits to persons who first become members on or after January 1, 1990, and are subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986, as they would receive under the other retirement benefit provisions in the absence of those limitations, while not affecting the rate of either member or employer contributions to the retirement system. In addition, it is intended that subdivisions (c) and (d) constitute an election under Section 415(b)(10)(C) of the Internal Revenue Code of 1986 with respect to all retirement plans within the retirement system.

(c) Notwithstanding any other provision of this part, the benefits payable to any person who first becomes a member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986, as adjusted pursuant to Section 415(d)(1)(A) and (B).

(d) Notwithstanding any other law, the benefits payable to any person who first became a member prior to January 1, 1990, shall not be subject to the limitations set forth in Section 415(b) of the Internal Revenue Code of 1986, except to the extent required by subsection (b)(10)(A) of Section 415.

(e) The election described in subdivision (b) shall apply to all employers whose employees are members of the retirement system of the county on December 31, 1989.

(f) The retirement benefits of all persons who first become members of the retirement system on or after January 1, 1990, and participate in Safety Plan B or General Plan D shall be governed by this chapter applicable to those plans and by this article.

(g) Subdivisions (c) and (d) shall not become operative until the board of supervisors has taken the actions required by subdivision (a) of Section 31510.2.

(h) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(Added by Stats. 1989, Ch. 1300, Sec. 1. Effective October 1, 1989.)

**31510.1.** Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county, district, or agency whose employees are members of the retirement system of the county.

(c) "General Plan F" means the defined contribution plan established in accordance with this article for the benefit of certain members of General Plan D.

(d) "Plan F" means General Plan F and Safety Plan F, collectively.

(e) "Prior plan" means Safety Plan B or General Plan D, as the context requires.

(f) "Safety Plan F" means the defined contribution plan established in accordance with this article for the benefit of certain members in Safety Plan B.

*(Added by Stats. 1989, Ch. 1300, Sec. 1. Effective October 1, 1989.)*

**31510.2.** (a) The board of supervisors of any county subject to this article shall establish two defined contribution retirement plans authorized by Section 401 of the Internal Revenue Code of 1986. The terms of the plans shall be mutually agreed to by the employer and employee representatives of affected employees prior to adoption or amendment by the board of supervisors. The plans shall be known as General Plan F and Safety Plan F and are referred to collectively as plan F.

(b) Any general member described in subdivision (f) of Section 31510 shall participate in General Plan F, and any safety member described in subdivision (f) of Section 31510 shall participate in Safety Plan F, after commencement of his or her participation in the prior plan.

(c) The board, upon the advice of the actuary, shall determine the portion of the member contributions otherwise required under the prior plan that shall be credited to plan F in lieu of being credited to the other plan. In doing so, the board shall provide for the level of contributions to plan F that is the minimum amount sufficient to satisfy the purposes set forth in subdivision (b) of Section 31510.

(d) The right of the member to benefits derived from member contributions vests under plan F upon the commencement of participation in plan F.

(e) If a member or beneficiary becomes entitled to receive a benefit in the form of an annuity under the terms of the prior plan, the member's account in plan F shall be converted to the same form of annuity as is payable to the member or beneficiary from the prior plan. The amount of the annuity payable under the prior plan, calculated prior to the application of this article (including the limitations set forth in Section 415 of the Internal Revenue Code of 1986), shall be reduced by the amount of the annuity generated under plan F as described in the preceding sentence. The amount payable from plan F shall be paid at the same time and in the same manner as the annuity payable from the prior plan and may be provided through an annuity contract purchased from an insurance company, at the discretion of the board. Notwithstanding the foregoing, if the member's account in plan F does not exceed three thousand five hundred dollars (\$3,500), it shall be paid to the member or beneficiary as a lump-sum payment, in lieu of the benefit otherwise payable under plan F.

(f) If a member or beneficiary becomes entitled to receive the member's accumulated contributions and interest from the prior plan, the member or beneficiary shall receive the member's account balance from plan F consisting of the member's accumulated contributions and actual earnings at the same time and in the same manner.

(g) In applying the limitations set forth in Section 415 of the Internal Revenue Code of 1986, benefits or annual additions in qualified retirement plans maintained by an employer separate from the retirement system shall be reduced first. Any additional reduction shall be made to the benefits from plans within the retirement system other than plan F, and then lastly to the annual addition to plan F.

(h) Plan F shall be administered in accordance with subsection (a) of Section 401 of the Internal Revenue Code of 1986 and the Treasury Regulations issued thereunder. The plan shall state that it is intended to be a profit-sharing plan wherein contributions are determined without regard to current or accumulated profits.

(i) For the purpose of this article, the term "annuity" means the combined benefit provided by an annuity, as defined in Section 31457, and the pension, as defined in Section 31471.

(j) To the extent any county subject to this article terminates General Plan F or Safety Plan F, or both of them, with respect to any group of members and in accordance with their terms and adopts a replacement benefits program under Section 31899.4 for those members in lieu of that plan or plans, this section shall be inoperative in that county with respect to those members. In any event, the election made pursuant to subdivision (b) of Section 31510, the provisions of subdivisions (c), (d), (e), (f), and (h) of Section 31510, and the provisions of Section 31510.3 shall remain operative in that county.

*(Amended by Stats. 2003, Ch. 520, Sec. 2. Effective January 1, 2004.)*

**31510.3.** It is intended that disability benefits payable from the retirement system pursuant to Article 10 (commencing with Section 31720), in the event of the member's termination of employment for disability, are compensation for personal injury or sickness, and therefore would not be subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986. If the Internal Revenue Service rules that the disability benefits are subject to those limitations, any employer which is subject to this article shall provide an alternate disability benefit equal to the decrease in the disability benefit caused by application of those limitations, through a long-term disability plan which shall be separate from the retirement system. The terms of that long-term disability plan shall be mutually agreed to by the employer and employee representatives and adopted by the board of supervisors.

*(Added by Stats. 1989, Ch. 1300, Sec. 1. Effective October 1, 1989.)*

**31510.4.** It is intended that the maintenance of plan F not affect the rate of either member or employer contributions to the retirement system. The board may set a rate of regular interest credited to contributions to the prior plan made with respect to

members participating in plan F that is different than the rate of regular interest credited to contributions made with respect to members not participating in plan F, if necessary to effectuate that intent.

*(Added by Stats. 1989, Ch. 1300, Sec. 1. Effective October 1, 1989.)*