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Code: Section:

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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 4. Membership [31550 - 31567] (Article 4 added by Stats. 1947, Ch. 424.)

31550. Whenever this chapter becomes operative in any county a retirement association shall be organized.

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

31551. The persons expressly declared to be ineligible to membership by this article shall not become members of the retirement association, and, except as expressly excluded, the persons enumerated in this article or the California Public Employees' Pension Reform Act of 2013 shall become members of the association.

Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, the Comprehensive Employment and Training Act of 1973 (Public Law 93-203), as amended, are excluded from membership. This exclusion shall not apply to active fire suppression personnel who are safety members pursuant to Sections 31469.3 and 31470.4.

(Amended by Stats. 2013, Ch. 247, Sec. 15. (AB 1380) Effective January 1, 2014.)

31552. All existing officers and employees of the county become members of the association on the day the retirement system becomes operative, and thereafter each person entering the county employ becomes a member on the first day of the calendar month after his entrance into the service, unless otherwise provided by regulations adopted by the board. Such regulations may provide for waiver of membership by the prospective employee in the case of newly hired employees who have attained the age of 60. In all cases where there is such a waiver, said employee upon attaining the age of 70 shall thereafter be employed from year to year at the discretion of the county.

(Amended by Stats. 1965, Ch. 1668.)

31552.1. On the first day of the calendar month after this section takes effect all existing officers and employees of the county, who, because of the provisions of Section 31552 prior to its amendment in 1953, were not members, become members on that day.

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

31552.2. All existing officers and employees of the county, now members of the retirement system, and who became employed by the county during that interim period when the law did not allow membership into the retirement system until the first day of the calendar month following the expiration of 180 days after his entrance into service, shall be allowed to make contributions and receive credit for that period of time as prior county service. The contribution rate shall be as prescribed in Section 31641.5 and election to receive credit for such service shall be available until time of filing of notice of retirement from county service.

(Added by Stats. 1970, Ch. 705.)

31552.4. Employees and officers described in Section 101851 of the Health and Safety Code shall not automatically become members of the retirement system of the health authority established pursuant to this chapter, and their eligibility for retirement benefits shall be established pursuant to the provisions of that section.

(Added by Stats. 2013, Ch. 311, Sec. 2. (AB 1008) Effective September 13, 2013.)

31552.5. (a) Except as provided in subdivision (b), employees and officers of the Kern County Hospital Authority, a public agency that is a local unit of government established pursuant to Chapter 5.5 (commencing with Section 101852) of Part 4 of Division 101 of the Health and Safety Code, shall not automatically become members of the Kern County Employees' Retirement Association, but shall have their eligibility for membership in the Kern County Employees' Retirement Association be established pursuant to the provisions of that chapter.

(b) An employee who is hired by the authority on or after the operative date of the act adding this subdivision shall be a member of the Kern County Employees' Retirement Association as provided in subdivisions (g) and (h) of Section 101853.1 of the Health and Safety Code.

(Amended by Stats. 2018, Ch. 405, Sec. 6. (SB 846) Effective September 14, 2018.)

31553. Elective officers become members of the retirement association on the first day of the calendar month following the filing of a declaration with the board to become a member, provided, however, that any such elective officer may, within 60 days after the expiration of the officer's term of office or within 60 days after the officer ceases to hold the office, rescind the declaration and withdraw from the retirement association. In such cases, all contributions paid by the member shall be refunded in the same manner as applicable to members terminating service.

(Amended by Stats. 1981, Ch. 329, Sec. 1.)

31554. All officers and attaches of the superior court established within the county, except judges and participants in any other pension system, become members of the association on the first day of the calendar month after the board of supervisors adopts by four-fifths vote a resolution providing for their inclusion. Thereafter each person entering such employ becomes a member on the first day of the calendar month following his entrance into the service of the court.

In this section "officer or attache of the superior court" includes all commissioners, phonographic reporters who are paid salaries or per diems by the county and whose contributions are based upon such salaries or per diems, secretaries, stenographers, investigators, messengers, or other employees of the court.

(Amended by Stats. 1955, Ch. 372.)

31556. The board of supervisors and all other county officers shall make the appropriations and perform the duties specified in this chapter with reference to court officers and attaches in the same manner as specified for county or district officers or employees. The deductions provided for in this chapter shall be made from the salaries of such officers or attaches in the same manner as for officers or employees of the county or districts.

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

31557. All officers and employees of any district become members of the association on the first day of the calendar month after:

(a) In the case of districts for which the board of supervisors is the governing body, such body adopts by four-fifths vote a resolution providing for the inclusion of the district in the retirement association.

(b) In the case of districts for which the board of supervisors is not the governing body, the governing body adopts by a two-thirds vote, a resolution providing for the inclusion of the district in the retirement association and the board, by majority vote, consents thereto. Thereafter, each person entering such employment becomes a member on the first day of the calendar month following his entrance into the service. However, if prior to January 1, 1976, the governing body and the board of retirement have executed an agreement providing for the purchase of prior service, the agreement may be amended to provide that the date of membership in the retirement association for any officer or employee shall be the first day of the calendar month following the officer's or employee's entrance into district service.

Members may be withdrawn from the association in the manner provided in Section 31564.

(Amended by Stats. 1980, Ch. 430.)

31557.1. Officers and employees of a district as defined in subdivision (g) of Section 31468, become members on the date specified in the agreement between the regents and the board of supervisors relating to the transfer to the regents of the hospital in which they are employed or of the obligation to provide professional medical services at the hospital in which they are employed. Notwithstanding Section 31564, if the agreement so provides, those employees shall cease to be members on the date of a referendum relating to coverage of those members under the Federal Old Age, Survivors, Disability, and Health Insurance Program in which less than a majority of those eligible employees voted in favor of that coverage.

(Amended by Stats. 1991, Ch. 99, Sec. 2.)

31557.2. Any action heretofore taken by the governing body of a district under Section 31557, or under color of that section, is hereby confirmed and validated and made fully effective. Membership in the association of any officers and employees of any district

who were included in the association by such action of the governing body, is hereby validated and confirmed and made fully effective as of the time of such inclusion.

(Added by Stats. 1959, Ch. 1676.)

31557.3. On the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, any personnel appointed pursuant to Sections 31522.5, 31522.9, 31522.10, and 31529.9 who had previously been in county service shall continue to be members of the system without interruption in service or loss of credit. Thereafter, each person entering employment with the district shall become a member of the system on the first day of the calendar month following his or her entrance into service.

(Amended by Stats. 2015, Ch. 223, Sec. 3. (AB 1291) Effective January 1, 2016.)

31558. All existing members of a pension system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200) of this part and all employees eligible as safety members who at the time of entering service elected to become safety members, or who subsequently became members, shall become safety members and thereafter each person employed in a position, the principal duties of which consist of active law enforcement or active fire suppression or juvenile hall group counseling and group supervision, as defined in Sections 31469.3, 31469.4, 31470.2 and 31470.4, shall become a safety member on the first day of the calendar month following his or her entrance into the service. The sheriff and undersheriff shall become safety members on the first day of the calendar month following their entrance into the service. The marshal and assistant marshal shall become safety members on the first day of the calendar month following their appointment.

(Amended by Stats. 1986, Ch. 840, Sec. 1.)

31558.1. Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to July 1, 1969, was employed in a position, the principal duties of which consist of active law enforcement as defined in Section 31469.3 or active fire suppression as defined in Section 31470.4, who has continuously since his or her employment made the salary contributions required of a safety member, and who has continuously since his or her employment been employed in a position which would make such person eligible to become a safety member if he or she had not been over the age of 35 years at the time of his or her employment, shall become a safety member as of the first day of the calendar month following his or her original entrance into the service.

A member who meets the requirements of the preceding paragraph, except that he or she has not made the contributions required of a safety member, may receive credit for such service, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been required if he or she had been a safety member. Such additional contributions are to be made prior to retirement and notice of election to receive credit for service, as a safety member, pursuant to this section, shall be made to the retirement board prior to April 1, 1975.

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

(Amended by Stats. 1986, Ch. 840, Sec. 2.)

31558.2. Notwithstanding any of the provisions of Section 31558 to the contrary, each person who, prior to the effective date of this section was employed in positions the principal duties of which consist of active law enforcement for not less than 10 years and who is employed by a county in a position which would make such person eligible to become a safety member at the time of his or her employment, may, if he or she so elects, become a safety member as of the first day of the calendar month following his or her entrance into county service.

A member may receive credit for such service, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been made by the member if he or she had been a safety member. Such additional contributions shall be made prior to retirement.

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 that county.

(Amended by Stats. 1986, Ch. 840, Sec. 3.)

31558.5. All members employed by a county having a population in excess of 2,000,000 who are employed on and prior to January 1, 1958, whose duties are described in Section 31470.6 and who prior to that date file with the board a written election to become safety members, shall become safety members on January 1, 1958.

All members employed by a county having a population of 2,000,000 or less and in excess of 500,000, who are employed on and prior to January 1, 1960, whose duties are described in Section 31470.6 and who prior to that date file with the board a written election to become safety members, shall become safety members on January 1, 1960.

After January 1, 1958, each person not over 35 years of age when employed by a county having a population in excess of 2,000,000 in a position the principal duties of which are described in Section 31470.6, shall become a safety member on the first day of the calendar month following his entrance into the service.

After January 1, 1960, each person not over 35 years of age when employed by a county having a population of 2,000,000 or less and in excess of 500,000 in a position the principal duties of which are described in Section 31470.6, shall become a safety member on the first day of the calendar month following his entrance into the service.

(Amended by Stats. 1959, Ch. 797.)

31558.6. Notwithstanding any of the provisions of Section 31558 to the contrary, each person who is employed in a position, the principal duties of which consist of juvenile hall group counseling and group supervision as defined in Section 31469.4, on the date the provisions of Section 31469.4 are made applicable in a county by the board of supervisors and who files with the board written election to become a safety member on or prior to one year after the date the provisions of Section 31469.4 are made applicable in a county by the board of supervisors, shall become a safety member.

Thereafter each person when employed in such position, shall become a safety member on the first day of the calendar month following his or her entrance into the service.

(Amended by Stats. 1986, Ch. 840, Sec. 4.)

31558.8. Notwithstanding any of the provisions of Section 31558 to the contrary, a person over 35 years of age who is employed by a county of the third class, as established by Sections 28020 and 28024, as amended in 1971, as a detective or investigator in the office of the district attorney, which would make the person eligible to become a safety member if he or she had not been over the age of 35 years at the time of his or her employment, may, if he or she so elects, become a safety member as of the first day of the calendar month following his or her entrance into county service regardless of age.

A member may receive credit for that service, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been made by the member if he or she had been a safety member. The additional contributions shall be made prior to retirement.

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 this section applicable in the county.

(Added by Stats. 1985, Ch. 860, Sec. 1.)

31559. Whenever a county or district subject to the provisions of this chapter takes over and assumes any of the functions of any other public agency, and because of such assumption all or any employees of such other public agency become employees of such county or district, any such employee whose principal duties consist of active law enforcement or active fire suppression, as defined in Sections 31469.3, 31470.2 and 31470.4, who, because of such transfer of functions, is employed in such a position in such county or district, shall become a safety member on the first day of the calendar month following his entrance into service.

(Amended by Stats. 1957, Ch. 2399.)

31560. A safety member shall remain a safety member only while the principal duties of his position consist of active law enforcement, active fire suppression or active lifeguard service as defined in Section 31469.3. While holding any other position in county service he shall remain a member but not a safety member.

(Amended by Stats. 1961, Ch. 1694.)

31561. Any person employed under contract for temporary services requiring professional or highly technical skill is ineligible for membership.

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

31562. Any elective officer who does not declare his intention to become a member of the retirement association as required by this chapter is ineligible to membership.

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

31563. Notwithstanding any other provision of law, a person ceases to be a member for any portion of his or her service as an elected public officer or as a public employee that is forfeited pursuant to Sections 7522.70, 7522.72, and 7522.74.

(Amended by Stats. 2014, Ch. 741, Sec. 3. (AB 2474) Effective January 1, 2015.)

31564. (a) All officers and employees of any district who have become members of the association as provided in Section 31557, may be withdrawn by a resolution of the governing body declaring all of the district's employees withdrawn from the association;

provided, the governing body has first received a written petition signed by a majority of its officers and employees requesting that the district's officers and employees be withdrawn from the association.

(b) Upon the adoption of any resolution to withdraw its members, all accumulated contributions held in the association shall be refunded to the district's employees upon the effective date of their withdrawal and in the same manner as the accumulated contributions would be refunded upon the termination of their employment by the district.

(c) Upon the adoption of any resolution to withdraw its members and where there are no existing retirees from the district, the district's contributions shall be transferred to another public retirement system that meets the requirement of a tax-qualified retirement plan under Section 401(a) of Title 26 of the United States Code.

(d) A refund, distribution, or transfer of contributions or other funds shall not be made to any employee or any district unless that action complies with the requirements of Section 401(a) of Title 26 of the United States Code.

(e) In the event of the transfer of district contributions to another public retirement system, the employee contributions shall also be transferred to the other public retirement system.

(f) The effective date of withdrawal of any resolution adopted pursuant to this section shall be at the end of the calendar month during which such resolution is adopted.

(Amended by Stats. 2014, Ch. 740, Sec. 5. (AB 2473) Effective January 1, 2015.)

31564.2. (a) If a district's participation in the retirement system is terminated pursuant to the provisions of Section 31564, the district shall remain liable to the retirement system for the district's share of any unfunded actuarial liability of the system which is attributable to the officers and employees of the district who either have retired or will retire under the retirement system.

(b) Unless otherwise developed by an actuarial source and approved by the board of retirement, the amount of the district's liability shall be the unfunded actuarial liability of the entire system, computed as described below, multiplied by a fraction:

(1) The numerator of which is the total amount required to be contributed to the plan by the withdrawing district for the last five years ending prior to the withdrawal date.

(2) The denominator of which is the total amount required to be contributed to the plan by all participating employers for the last five years.

The plan's total unfunded actuarial liability for this purpose shall be calculated on the basis of the actuarial assumptions used in the plan's most recent actuarial valuation, except that all district members shall be assumed to terminate as of the date of withdrawal.

(c) The district's liability shall be paid in accordance with a schedule determined by the retirement board over a period no longer than the period over which the plan's remaining unfunded actuarial liability is being amortized.

(d) The funding of the retirement benefits for the employees of a withdrawing agency is solely the responsibility of the withdrawing agency or the board of supervisors. Notwithstanding any other provision of law, no contracting agency shall fail or refuse to pay the employer's contribution required by this chapter or to pay the employer's contribution required by this chapter within the applicable time limitations. In dealing with a withdrawing district, the board of retirement shall take whatever action needed to ensure the actuarial soundness of the retirement system.

(e) The Legislature finds and declares that this section is declaratory of existing law, to the extent this section provides that upon withdrawal from the retirement system, a district shall remain liable for its share of the unfunded actuarial liability of the system. This section is intended to define the method of calculating the district's share of that unfunded actuarial liability.

(Added by Stats. 1998, Ch. 109, Sec. 4. Effective January 1, 1999.)

31564.5. Whenever the governing body of a district for which the board of supervisors is not the governing body adopts a resolution for the inclusion of such district in the retirement association, if, in the opinion of the board because of conditions peculiar to such district the contributions required from such district by this chapter are insufficient to pay the same proportion of the costs of the system as will be paid by the county, the board may require that such district contract with the board to appropriate additional sums. If, because of conditions peculiar to such district the contributions required from such district by this chapter are greater than necessary to pay the same proportion of the costs of the system as will be paid by the county, the board and such district may contract for lesser sums. Either of such contracts may provide, among other things, that whenever the board of supervisors makes an additional appropriation pursuant to Section 31454.5, the district also will make an additional appropriation calculated by a formula specified in such contract. All such districts are hereby authorized to enter into and perform such contracts.

(Added by Stats. 1957, Ch. 1387.)

31565. Any member of a system established under this chapter who is employed in a status requisite for membership in the State Teachers' Retirement System, may elect to transfer his membership to that system. Any member who elects to transfer his

membership pursuant to this section may also elect in writing to withdraw his accumulated contributions, and in such event he shall be paid all of his accumulated contributions in the county retirement system.

(Added by Stats. 1957, Ch. 1452.)

31565.5. Any member of a system established under this chapter who ceases to be an employee of the county under the provisions of Section 1312 of the Education Code may elect as authorized in Section 1313 of the Education Code to remain a member of such system.

(Amended by Stats. 2021, Ch. 186, Sec. 13. (SB 634) Effective January 1, 2022.)

31567. Any member of a retirement system established under this chapter who is employed in a position, the principal duties of which consist of active law enforcement or active fire suppression as defined under Sections 31469.3, 31470.2 and 31470.4, and who, prior to 1955, had the right to elect to become a safety member of such system shall again have the right to elect to become a safety member. Notice of such election shall be given in writing to the board of retirement administering the system.

The member's status as a safety member shall be effective on the first day of the second month following that in which the notice of election is received by the board of retirement.

Such a member may elect to receive credit for service rendered as a member of such system, as if he had been a safety member commencing in 1955. Notice of such election shall be given in writing to the board of retirement no less than 30 days prior to the member's retirement. The member shall receive credit for such service, as a safety member, if he contributes the difference between the member contributions actually made for that period of service and the contributions that he would have been required to make if he had been a safety member during that period. The member shall also contribute interest on the difference at the rates at which interest was credited on member contributions for each year of the period for which credit is sought.

An election under this section shall be irrevocable, and the additional contribution payments hereunder required, if not completed as specified, shall be forfeited to the retirement fund, and a forfeiting member shall then receive only general membership benefits. Additional contributions shall be made by lump sum payment or in such monthly payroll deduction amounts as determined by the board, but must be made prior to the member's retirement.

(Amended by Stats. 1969, Ch. 1247.)