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TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 2. Officers and Employees [53200 - 53299] (Chapter 2 added by Stats. 1949, Ch. 81.)

ARTICLE 1.5. Pension Trusts [53215 - 53224] (Article 1.5 added by Stats. 1955, Ch. 924.)

53215. "Local agency" as used in this article means a city, city and county, district, school district, municipal or public corporation, political subdivision, or other public agency of the State, or any instrumentality of one or more of any such agencies.

(Added by Stats. 1955, Ch. 924.)

53216. The legislative body of a local agency may establish a pension trust funded by individual life insurance contracts, individual annuities, group policies of life insurance, or group annuities, or any one or combination of them, or by any other investment authorized by this article for the benefit of its officers and employees.

The legislative body of a local agency may make participation in any plan under such pension trust optional with the officers and employees of the local agency or it may make participation in such pension trust plan compulsory for the officers and employees of such agency.

Officers and employees who participate in such pension trust plan, whether it is optional or compulsory, shall have their plan contributions deducted from their compensation.

(Amended by Stats. 1975, Ch. 29.)

53216.1. It is the intent of the Legislature, consistent with the mandate of the voters in passing Proposition 21 at the June 5, 1984, Primary Election, to allow the board of any retirement system governed by this article to invest in any form or type of investment deemed prudent by the board pursuant to the requirements of Sections 53216.5 and 53216.6. It is also the intent of the Legislature to repeal, or amend as appropriate, certain statutory provisions, whether substantive or procedural in nature, that restrict the form, type, or amount of investments that would otherwise be considered prudent under the terms of those sections. This will increase the flexibility and range of investment choice available to these retirement systems, while ensuring protection of the interests of their beneficiaries.

(Repealed and added by Stats. 1984, Ch. 1738, Sec. 28. Effective September 30, 1984.)

53216.2. A county that has established a pension trust pursuant to this article may contract with the courts within the county, and with other local agencies within the county, to permit the officers and employees of those courts and local agencies to participate in any plan under the county's pension trust.

(Amended by Stats. 2002, Ch. 882, Sec. 1. Effective January 1, 2003.)

53216.3. The legislative body shall employ investment counsel or trust companies or trust departments of banks to render service in connection with its investment program.

(Added by Stats. 1968, Ch. 1069.)

53216.4. The legislative body of the local agency shall report annually to the beneficiaries and potential beneficiaries of the pension trust on the status of the trust. The report shall include a description of securities held and a comprehensive report of transactions involving the investment of the assets similar to that required of a life insurance company licensed to do business in California.

The annual report shall also include a detailed statement of the expenses of operating the pension trust, including compensation paid, fees paid, operating ratios, and net profit and loss statements, including the acquisition cost, the book value, and market value of the total assets as of the date of the report.

In the matter of commission fees and other fees paid to persons not employed by the local agency for services in connection with investments under this article, the names of those persons to whom such fees are paid and the amounts paid shall be clearly identified in the report.

(Added by Stats. 1968, Ch. 1069.)

53216.5. Notwithstanding any other provisions of this article and except as otherwise expressly restricted by the California Constitution and by law, the legislative body, trust, or other body, authorized to make investments for a pension trust, may invest, or delegate the authority to invest, the assets of the pension trust, through the purchase, holding, or sale of any form or type of investment, financial instrument, or financial transaction when prudent in the informed opinion of that body pursuant to Section 53216.6.

(Amended by Stats. 1984, Ch. 1738, Sec. 30. Effective September 30, 1984.)

53216.6. The assets of the pension trust are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

The legislative body, trust, or other body authorized to make investments for a pension trust, shall discharge its duties with respect to investing the assets of the pension trust.

(a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the trust.

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(c) Shall diversify the investments of the trust so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

(Repealed and added by Stats. 1984, Ch. 1738, Sec. 32. Effective September 30, 1984.)

53216.7. Notwithstanding any other provision of this article to the contrary, separate rates of contribution for male and female employees shall not be maintained or established nor shall different allowances or benefits for male or female employees be maintained or established.

(Added by Stats. 1976, Ch. 1436.)

53216.8. In the case of a pension trust established pursuant to this article which provides for individual accounts and permits a participant or beneficiary to direct investments in his or her account, if a participant or beneficiary directs investments in his or her account, no person who is a corporate custodian or a corporate trustee that provides services to the pension trust shall be liable for any loss, or by reason of any breach, which results from that participant's or beneficiary's directions with respect to the assets in his or her account.

(Added by Stats. 2000, Ch. 34, Sec. 1. Effective January 1, 2001.)

53216.9. (a) Any former member who left the service of a local agency with established reciprocity, and who became a member of a county retirement system, a retirement system established under the Public Employees' Retirement Law, or another reciprocal retirement system and who did not elect to, or was not eligible to, leave his or her contributions on deposit, may elect to redeposit those contributions if he or she is an active member of a reciprocal retirement system or the Public Employees' Retirement System at the time of redeposit. A former member may exercise this right by redepositing in the retirement fund of the local agency he or she left, the amount of accumulated contributions and interest that he or she withdrew from that retirement fund plus regular interest thereon from the date of separation.

(b) A former member who redeposits under this section shall have the same rights as a member who elected to leave his or her accumulated contributions on deposit in the local agency's fund. The deferred retirement allowance of the member shall be determined in accordance with provisions applicable to a member retiring directly from local agency employment on the date of his or her retirement.

(c) A former member who redeposits under this section shall be entitled to a reduced age at entry, commencing with contributions payable the first day of the month following the date the local agency receives notice of the redeposit, if applicable.

(d) This section does not apply to either of the following:

(1) A member or former member who is retired.

(2) A former member who is not in the service of an employer making him or her a member of a county retirement system, a retirement system established under the Public Employees' Retirement Law, or another reciprocal retirement system.

(e) This section only applies to either of the following:

(1) A former member who is in the service of an employer as an officer or employee of a law enforcement agency or fire department whose principal duties consist of active law enforcement or firefighting and prevention service, but excluding one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(2) A former member who is in the service of an employer and seeks to redeposit contributions for past employment as an officer or employee of a law enforcement agency or fire department in this system whose principal duties consisted of active law enforcement or firefighting and prevention service, but excluding one whose principal duties were those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions did not clearly come within the scope of active law enforcement or firefighting and prevention service, even though the officer or employee was subject to occasional call, or was occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service.

(f) For purposes of this section, a "former member" is a member who left service under a retirement system established under this article and who did not elect to, or was not eligible to, leave his or her contributions on deposit.

(g) Each retirement system subject to this section shall establish criteria to determine the eligibility of a former member to redeposit contributions, and the amount of contributions that may be redeposited, in those cases in which the system no longer maintains complete records with respect to the former member.

(h) It is the intent of the Legislature in enacting this section to recognize a statewide public obligation to all those whose duties as local public safety officers expose them to more than ordinary risks through their contribution to ensuring public safety and to ensure that those who do serve or have served as local public safety officers shall have the ability to receive pension benefits for past public service in other jurisdictions within the state.

(Added by renumbering Section 53216.8 (as amended by Stats. 2003, Ch. 62, Sec. 156) by Stats. 2015, Ch. 303, Sec. 226. (AB 731) Effective January 1, 2016.)

53217. From funds under its jurisdiction the legislative body may authorize payment to the trust of amounts equaling all or any portion of the moneys necessary to fund any pension trust established pursuant to this article. The legislative body may also authorize payment of amounts to cover the reasonable expenses of the administration of the trust. Such expenditures are charges against the funds of the agency making them.

(Amended by Stats. 1975, Ch. 29.)

53217.5. (a) It is the intent of the Legislature in enacting this section, to provide a uniform limit on the pension trust benefits for the members of the legislative bodies of all political subdivisions of the state, including charter cities and charter counties. The Legislature finds and declares that uneven, conflicting, and inconsistent pension trust benefits for legislative bodies distort the statewide system of intergovernmental finance. The Legislature further finds and declares that the inequities caused by these problems extend beyond the boundaries of individual public agencies.

Therefore, the Legislature finds and declares that these problems are not merely municipal affairs or matters of local interest and that they are truly matters of statewide concern that require the direct attention of the state government. In providing a uniform limit on the pension trust benefits for the legislative bodies of all political subdivisions of the state, the Legislature has provided a solution to a statewide problem that is greater than local in its effect.

(b) Notwithstanding any other provision of law, the pension trust benefits of any member of a legislative body of any city, including a charter city, county, including a charter county, city and county, special district, school district, or any other political subdivision of the state shall be no greater than that received by nonsafety employees of that public agency. In the case of agencies with different benefit structures, the benefits of members of the legislative body shall not be greater than the most generous schedule of benefits being received by any category of nonsafety employees.

(c) Notwithstanding any other provision of law, members of the legislative body of a city, including a charter city, county, including a charter county, city and county, special district, school district, or any other political subdivision of the state shall not be eligible to accrue multiple pension trust benefits greater than the most generous schedule of benefits being received by any category of nonsafety employees from two or more public agencies for concurrent service except in the case of a member who serves as a regular full-time employee in a separate public agency.

(d) This section shall be applicable to any member of a legislative body whose first service commences on and after January 1, 1995.

(Added by Stats. 1994, Ch. 1065, Sec. 3. Effective January 1, 1995.)

53217.6. (a) It is the intent of the Legislature in enacting this section to recognize a public obligation to all those whose duties as local prosecutors, local public defenders, and local public defender investigators expose them to more than ordinary risks in their contribution to an effective statewide criminal justice system and to ensure that those who serve as local prosecutors, local public defenders, and local public defender investigators and who become incapacitated in the performance of their duties or by age may be replaced by more capable employees and shall receive pension benefits commensurate with those received by local prosecutors, local public defenders, and local public defender investigators in other jurisdictions within the state.

(b) Notwithstanding any other provision of law, the pension trust benefits of any officer or employee of any city, including a charter city, county, including a charter county, or city and county whose positions meet or, on or after January 1, 2002, met the criteria of a local prosecutor, local public defender, or local public defender investigator, as described in Section 20423.6 or 31469.2, shall be those pension trust benefits accorded to safety members of the applicable county sheriff's department or the applicable police or fire department of the public agency. Notwithstanding the foregoing, the pension trust benefits accorded to a local prosecutor, local public defender, or local public defender investigator may not be greater than those benefits provided to local safety members of the Public Employees' Retirement System under Section 21363.1 or safety members of a county retirement system under Section 31664.2.

(c) Except as provided in subdivision (e) and notwithstanding any other provision of this chapter, past service shall be converted to safety service, if the past service was rendered in a position that has been made subject to safety benefits pursuant to this section. For local prosecutors described in paragraph (2) of subdivision (b) of Section 20423.6, and paragraph (2) of subdivision (a) of Section 31469.2, service in the office of a district attorney and a local child support agency shall be considered service for the district attorney for purposes of this section. Any unfunded liability resulting from this section shall be paid by the employer.

(d) This section shall apply only to a person whose effective date of retirement is on or after the date this section becomes operative in the city, including a charter city, county, including a charter county, or city and county.

(e) Notwithstanding any other provision of this chapter, within 90 days after this section becomes operative in the city, including a charter city, county, including a charter county, or city and county, or on the first day of the calendar month following his or her entrance into service, whichever is later, any local prosecutor, local public defender, or local public defender investigator may file a written election not to become subject to the pension benefits accorded to safety members under the retirement system of the city, including a charter city, county, including a charter county, or city and county.

(f) This section shall not be operative in a city, including a charter city, county, including a charter county, or city and county unless and until the city council or board of supervisors, by ordinance or resolution adopted by majority vote, makes this section operative in the city, county, or city and county. A resolution to make this section operative shall include all local prosecutors, local public defenders, and local public defender investigators as described in Section 20423.6 or 31469.2.

(g) This section does not apply to any local prosecutor, local public defender, or local public defender investigator, as described in Section 20423.6 or 31469.2, who dies prior to the date this section becomes operative in the city, county, or city and county.

(Added by Stats. 2002, Ch. 1152, Sec. 16. Effective January 1, 2003.)

53217.10. (a) On or after January 1, 2003, a member who is credited with less than the number of years of service required for vesting shall have the right to elect to leave accumulated contributions on deposit in the local agency's retirement fund. Failure to make an election to withdraw accumulated contributions shall be deemed an election to leave accumulated contributions on deposit in the retirement fund.

(b) An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time except: (1) while the member is employed in service in a position in which the member is not excluded from membership in the local system retirement fund with respect to that service; (2) while the member is in service as a member of public retirement system supported, in whole or in part, by state funds; or (3) while the member is in service, entered within six months after discontinuing county service, as a member of a reciprocal retirement system. All accumulated contributions contributed up to the time of revocation may then be withdrawn.

(c) A member whose membership continues under this section is subject to the same age, service, and disability requirements as apply to other members for service or disability retirement. After the qualification of the member for retirement by reason of age, which shall be the lowest age applicable to any membership category in which the member has credited service, disability, the member shall be entitled to receive a retirement allowance based upon the amount of the member's accumulated contributions and service standing to the member's credit at the time of retirement and on the employer contributions held for the member and calculated in the same manner as for other members.

(d) Service, solely for purposes of meeting minimum service qualifications for service or disability retirement, shall also include service credited as an employee of a reciprocal system when the member retires concurrently from all reciprocal retirement systems. A member whose combined service from all reciprocal retirement systems does not meet the minimum service qualifications may not receive a service or disability retirement from this system.

(e) For purposes of this section, "accumulated contributions" means the sum of all member contributions standing to the credit of a member's individual account, and interest thereon.

(f) It is the intent of the Legislature in enacting this section to recognize that the state has a compelling interest in ensuring that its public agencies recruit and retain the highest caliber of public employees by allowing local public employees to retain the service credit that they earned through their service as local public employees in order to encourage them to return to public employment and continue to serve the public.

(Added by Stats. 2002, Ch. 883, Sec. 8. Effective January 1, 2003.)

53218. Any law prohibiting, restricting, or limiting the assignment of or order for wages or salary does not prohibit, restrict, or limit the powers conferred in this article nor the power of officers or employees to authorize and approve payment of trust contributions by wage and salary deductions.

(Added by Stats. 1955, Ch. 924.)

53219. A pension trust established pursuant to this article shall have trustees, agents or officers who shall carry on the business of the pension trust. The by-laws or declaration of trust shall prescribe the manner in which and the officers or agents by whom the pension trust may be conducted and the manner in which its funds shall be collected and disbursed. The funds and investments of a pension trust shall be held separately and independently of the funds and investments of the employer and of any other person.

(Added by Stats. 1955, Ch. 924.)

53220. Unless the legislative body of the local agency specifically provides that a pension trust plan established pursuant to this article is compulsory upon the officers and employees of the local agency, it shall not be compulsory for an officer or employee of such agency to accept or join in such plan.

If, pursuant to Section 53216, the legislative body of the local agency makes such plan compulsory, it may provide that every officer and employee of the local agency who is eligible for membership, except for elective officers, shall on the start of the first pay period following the effective date of this section automatically become a member of said plan; and, that thereafter each other employee and officer of said agency who is eligible for membership in said plan under its terms, except for elective officers, automatically becomes a member of said plan on the day of his entry into employment with said agency. The legislative body of the local agency may provide that elective officers of said agency become members of said plan either on the first day of taking office or on the first day of the payroll period following the filing of a declaration by such an officer with the board of trustees of the pension trust to become a member.

(Repealed and added by Stats. 1973, Ch. 653.)

53221. The legislative body of the local agency which establishes a pension trust plan pursuant to the provisions of this article may provide for waiver of membership by prospective employees in the case of newly hired employees who have obtained the age of 60 years of age. Such legislative body may also provide that an employee shall at the end of the pay period in which he or she obtains the age of 70 automatically cease to be an employee of the agency which hired him.

(Added by Stats. 1973, Ch. 653.)

53222. The legislative body of a local agency which establishes a pension trust plan pursuant to the provisions of this article may grant reciprocal retirement benefits to members who are entitled to retirement rights or benefits from other retirement systems established under this article, Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 of this code, the Public Employees' Retirement Law, or the County Employees Retirement Law of 1937.

(Added by Stats. 1973, Ch. 653.)

53222.5. If a local legislative body establishes a pension trust pursuant to this article that provides for disability retirement or has established reciprocity with a retirement system that provides for disability retirement, the legislative body of the local agency, in determining whether a member is eligible to retire for disability, shall make a determination on the basis of competent medical opinion and shall not use disability retirement as a substitute for the disciplinary process.

(Added by Stats. 2008, Ch. 370, Sec. 5. Effective January 1, 2009.)

53223. The legislative body of the local agency which establishes a pension trust plan pursuant to the provisions of this article may adopt any other provisions and regulations concerning such plan which are not specifically prohibited by statute.

(Added by Stats. 1973, Ch. 653.)

53224. The legislative body of a local agency which establishes a pension trust plan pursuant to the provisions of this article may contribute to a plan which is established pursuant to the Federal Employee Retirement Income Security Act of 1974.

(Added by Stats. 1975, Ch. 268.)