

## **Assembly Bill No. 2101**

### **CHAPTER 275**

An act to amend Sections 22106.2, 22119.5, 22144.3, 22156.1, 22170.5, 22501, 22509, 22711, 22714, 22717, 22718, 24204, 25025, 26113, 26801, 26803, 26804, 26808, 26810, and 27204 of, to add Sections 23011 and 26303.7 to, and to repeal Section 22151 of, the Education Code, and to amend Sections 20230, 20731, 22772, 22960.95, 22970.85, 31465, 31627.1, 31627.2, 31631.5, 31641.45, 31646, 31662.2, 31670, 31672, 31672.1, 31672.2, 31672.3, 31706, 31760.1, 31760.2, 31765, 31765.1, 31776.3, 31781.1, 31781.2, 31785, 31785.1, 31786, 31786.1, 31787, 31787.5, 31855.3, and 75088.3 of, to add Sections 31454.7 and 31680.10 to, to repeal Sections 31649.5, 31649.6, 31650, and 31651 of, and to repeal and add Section 31649 of, the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 29, 2020. Filed with  
Secretary of State September 29, 2020.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2101, Committee on Public Employment and Retirement. Public employees' retirement.

(1) Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is administered by the Teachers' Retirement Board. The Defined Benefit Program is funded by employer and employee contributions, as well as investment returns and state appropriations, which are deposited or credited to the Teachers' Retirement Fund.

Existing law authorizes a member to elect continued defined benefit coverage in STRS when taking a position that provides a defined benefit in another public retirement system, and requires the election to be made in writing and to be filed with STRS and the other public retirement system.

This bill would remove the requirement that the election be filed with the other public retirement system, and would instead require the employer to retain a copy of the election form.

(2) Existing law defines creditable service for purposes of STRS to include, among other things, the work of audiometrists performed for a prekindergarten through grade 12 employer in a position requiring Commission on Teacher Credentialing certification qualifications, for a community college employer by a faculty member, or for a charter school employer, as provided. Existing law grants the Teachers' Retirement Board

final authority for determining creditable service to cover any activities not specified.

This bill would instead include as creditable service activities performed for an employer by an audiometrist who holds a certificate of registration issued by the State Department of Health Care Services.

(3) Existing law creates the Teachers' Retirement Fund, which is continuously appropriated for specified purposes, and into which employee contributions are deposited. Existing law requires employees to make contributions to the system based on their creditable compensation, as defined. Existing law defines "leave of absence" for purposes of the Teachers' Retirement Law as a period of leave to which a member is entitled that is expressly authorized or required pursuant to specified provisions. Among other things, these provisions provide for leaves of absence for military service, service as an elected member of the Legislature, and service on certain boards and commissions, subject to specified requirements.

This bill would define "leave of absence" to also mean an employer-approved compensated leave taken on or after January 1, 2016, that is otherwise excluded from the definition of leave of absence described above. The bill would require that remuneration that is paid for an employer-approved compensated leave be creditable compensation, as specified. Based on the increase in creditable compensation, the bill would increase employee contributions into continuously appropriated Teachers' Retirement Fund, thereby making an appropriation.

(4) Existing law grants a member of STRS service credit at retirement for accumulated and unused sick leave days, as specified. Existing law defines sick leave days for these purposes to mean the number of days of accumulated and unused leave of absence for illness or injury, and defines basic sick leave to mean the equivalent of one day's paid leave of absence per pay period due to illness or injury. Existing law also grants a member service credit during the time the member is serving as an elected officer of an employee organization and is on a compensated leave of absence.

This bill would instead define sick leave to be the number of days of accumulated and unused leave of absence for illness or injury granted by each employer, and would define basic sick leave to mean the days of paid leave of absence due to illness or injury granted by each employer, not to exceed 12 days per school year. The bill would specify that a member is prohibited from receiving service credit for accumulated, unused sick leave that the member receives service credit for in another public retirement system. The bill would grant a member who is an elected officer of an employee organization on a compensated leave of absence STRS benefits that the member would have received had the member not been on a compensated leave of absence.

(5) Existing law authorizes an employer, for purposes of STRS, to offer an additional 2 years of service credit to specified members if the member elects to retire in a defined period. Existing law requires a member to forfeit the additional 2 years of service credit if the retired member takes any job within the school district, community college district, or county office of

education that granted the member the service credit less than 5 years after receiving the additional credit.

This bill would require a member to forfeit the additional 2 years of service credit if the member takes any job within the school district, community college district, or county office of education as an employee, an independent contractor, or an employee of a third party.

(6) Existing law establishes the Defined Benefit Supplement Program in STRS for the purpose of providing supplemental benefits to members whose earnings are in excess of specified amounts. Existing law establishes the Cash Balance Benefit Program, administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service. Existing law requires a termination benefit under the Defined Benefit Supplement Program and Cash Balance Benefit Program to be payable 6 months after the member terminates employment.

This bill would instead require the termination benefit to be payable 180 calendar days after the member terminates employment. The bill would make additional administrative changes to the Cash Balance Benefit Program to conform with the administration of the defined benefit program.

(7) Existing law authorizes the Teachers' Retirement Board to assess penalties and interest if an employer fails to make a payment of contributions to STRS.

The bill would require penalties and interest overpaid to STRS to be considered additional contributions, to be deposited in the Teachers' Retirement Fund, and to be treated in the same manner as other contributions paid to STRS.

(8) The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to state employees and employees of contracting agencies. Existing law requires administration of PERS by the Board of Administration of PERS. Existing law creates the Public Employees' Retirement Fund as a trust fund to be expended only for purposes related to the system and its administration, as specified, and provides that the fund is continuously appropriated for these purposes. Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act, as specified.

Under existing law, data filed with the board by any member, retired member, beneficiary, or annuitant is confidential. Existing law prohibits system officials and employees from divulging the data except pursuant to specified parties and entities.

This bill would make various technical and clarifying changes to these provisions, including specifying that data filed on behalf of any member, retired member, beneficiary, or annuitant is also confidential and that data may be divulged to other retirement systems that provide reciprocal benefits to members of PERS.

Existing law authorizes a member of PERS, who is credited with less than a certain number of years of service and who enters employment as a member of another public retirement system supported by state funds, within 6 months of leaving state service, to elect to leave their accumulated contributions on deposit in the retirement fund. Existing law specifies that a member's failure to make an election to withdraw accumulated contributions is deemed an election to leave the member's accumulated contributions on deposit in the retirement fund. Existing law provides that a member may revoke their election to allow accumulated contributions to remain in the retirement system, except under specified circumstances. Existing law requires a member who is permanently separated from all PERS covered service, who meets specified conditions, and who attains 70 years of age, to be provided with an election to withdraw contributions, or, if vested, an election to either apply for service retirement or to withdraw contributions.

This bill would instead require a member permanently separated under the circumstances described above to attain 71 ½ years of age before being provided with those election options. This bill would also correct an obsolete cross reference.

(9) The PERL contains the State Peace Officers' and Firefighters' Defined Contribution Plan as a separate supplemental plan for certain peace officers and firefighters, and is administered by the board of PERS. Existing law establishes the State Peace Officers' and Firefighters' Defined Contribution Plan Fund as a trust fund, with moneys in the fund continuously appropriated to the board for purposes of administering the plan.

Under PERL, a participant, nonparticipant, spouse, or beneficiary is not permitted to elect a distribution under the plan that does not satisfy specified requirements of federal law related to being a qualified pension trust plan. Existing law requires the beginning date of distributions that reflect the entire interest of the participant, for a lump-sum distribution, to be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 70 ½ or the calendar year in which the participant terminates all employment subject to plan coverage. Existing law also requires, for a distribution to the participant in the form of installment payments or an annuity, that payment begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 70 ½ years of age or the calendar year in which the participant terminates all employment subject to plan coverage. Existing law also requires, if a benefit is payable on account of the participant's death, and the beneficiary is the participant's spouse, the distributions to commence on or before the later of either December 31 of the calendar year immediately following the calendar year in which the participant dies, or December 31 of the calendar year in which the participant would have attained 70 ½ years of age.

This bill would raise the age for required distributions, in the circumstances described above, from 70 ½ years of age to 72 years of age.

(10) Existing law establishes the Supplemental Contributions Program as a defined contribution plan to supplement the benefits provided under PERL. Existing law establishes the Supplemental Contributions Program Fund as a special trust fund, with moneys in the fund continuously appropriated to the board of PERS, for purposes of the program. Under existing law, a participant, nonparticipant, spouse, or beneficiary is not permitted to elect a distribution under the plan that does not satisfy federal requirements related to being a qualified pension trust plan. Existing law requires the beginning date of distributions that reflect the entire interest of the participant, for a lump-sum distribution to the participant, to be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 70½ years of age or the calendar year in which the participant terminates all employment. Existing law requires the beginning date of distributions, if provided in periodic payments, to begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 70½ years of age or the calendar year in which the participant terminates all employment subject to plan coverage. Existing law also requires, if a benefit is payable on account of the participant's death, and the beneficiary is the participant's spouse, that distributions commence on or before the later of either December 31 of the calendar year immediately following the calendar year in which the participant dies or December 31 of the calendar year in which the participant would have attained 70½ years of age.

This bill would raise the age for required distributions, in the circumstances described above, from 70½ years of age to 72 years of age.

(11) The Judges' Retirement Law prescribes retirement benefits for judges, as defined, who were first elected or appointed to judicial office before November 9, 1994. Existing law also establishes the Extended Service Incentive Program to provide enhanced retirement benefits for those judges who continue in service beyond retirement age, as specified, and directs the board of administration of PERS to implement the program. Existing law prescribes that the required beginning date of distributions that reflect the entire interest of the judge, for a lump-sum distribution, be made not later than April 1 of the calendar year following the later of the calendar year in which the judge attains 70½ years of age or the calendar year in which the judge terminates employment. Existing law also requires, if a benefit is payable on account of the judge's death, and the beneficiary is the judge's spouse, that distributions commence on or before the later of December 31 of the calendar year immediately following the calendar year in which the judge dies or December 31 of the calendar year in which the judge would have attained 70½ years of age.

This bill would raise the age for required distributions, in the circumstances described above, from 70½ years of age to 72 years of age.

(12) The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions for the purpose of providing pension and death benefits to county and district employees.

This bill would correct several erroneous and obsolete cross-references within CERL.

(13) The California Constitution commits plenary authority for administration of public employee retirement systems, and for the provision of actuarial services for the systems, to their boards of administration. CERL prescribes actuarial requirements for CERL systems and, upon the basis of the investigation, valuation, and recommendation of the actuary, the retirement board is required to recommend to the county board of supervisors the changes in rates of interest, in rates of member contributions, and in county and district appropriations that are necessary. A similar process is prescribed for districts within the system, but that are not governed by the board of supervisors.

This bill would make a statement of legislative affirmation regarding a ruling in a specified court case upholding a retirement board's plenary authority to recommend adjustments to county and district contributions necessary to ensure the appropriate funding of the retirement system.

(14) CERL authorizes a member who returns to active service following an uncompensated leave of absence on account of illness to receive service credit for the period of the absence upon payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have accrued.

This bill would similarly authorize a member who returns to active service following an uncompensated leave of absence on account of approved parental leave to receive service credit for the period upon payment of contributions and interest. The bill would prohibit service credit to be received for such a period of absence from exceeding 12 consecutive months and would prescribe requirements for payments. This provision would be operative in a county only if the board of supervisors elect to make it so, as specified, and would apply to parental leave that begins after the election.

(15) CERL authorizes a member who resigns or obtains a leave of absence to enter, and who does enter, the Armed Forces of the United States on a voluntary or involuntary basis, under prescribed circumstances, to obtain service credit for the period during which the member was out of county service.

This bill would recast these provisions and would generally require that CERL comply with the federal Uniformed Services Employment and Reemployment Rights Act of 1994, as it may be amended. The bill would also authorize a member who does not qualify for reemployment benefits due to the length of military service and who returns to county or district employment within one year of being honorably discharged from the Armed Forces of the United States, to receive credit for service for all or any part of the member's military service upon making specified payments.

(16) CERL requires boards of retirement to provide for the retirement of members who meet age and service requirements.

This bill would authorize a system administrator or other personnel to exercise a board's power to retire members as described above. The bill

would require that service retirements be reported to the board at its next public meeting after the retirement.

(17) CERL prescribes requirements for calculating the effective date of retirement under different membership conditions, generally providing that the date not be more than 60 days after the date of filing.

This bill would prescribe general requirements regarding the effective date of retirement to prohibit it from beginning earlier than the date the application is filed with the board or more than 60 days after the date of filing or more than a number of days that has been approved by the board.

(18) CERL and other existing laws prescribe requirements for reinstatement after retirement and for service without reinstatement. CERL prescribes different requirements, to be elected by a county, regarding member status in a retirement system upon reemployment, including how the rate of contributions and retirement allowance are to be calculated upon a subsequent retirement.

This bill would require that people who have retired under CERL following an involuntary termination of employment who are subsequently reinstated to that employment pursuant to a final administrative or judicial proceeding, as specified, be reinstated from retirement as if there were no intervening period of retirement. The bill would require the person to repay an allowance paid to the person to the retirement system from which they retired in accordance with the retirement system's repayment policy and that contributions be made for any period for which salary is awarded in the administrative or judicial proceedings in the amount that would have been contributed had the member's employment not been terminated. The bill would require that the person receive service credit for the period for which salary is awarded. The retirement system would be granted discretion regarding the timing of repayment.

(19) CERL prescribes requirements regarding notification of members who have left service and elected to leave accumulated contributions in the retirement fund or have been deemed to have elected deferred retirement, as specified. Existing law requires the retirement system to start paying the member an unmodified retirement allowance in the year in which the member attains 70 ½ years of age, if the member can be located but does not make proper application for a deferred retirement allowance, as specified. Existing law prescribes alternate requirements if a member cannot be located. CERL establishes the Deferred Retirement Option Program, which a county or district may elect to offer and which provides an additional benefit on retirement to participating members.

This bill would require that members who have left service, as described above, in addition to notification regarding retirement allowances, also be notified regarding their eligibility for a one-time distribution of accumulated contributions and interest. The bill would revise the age at which the retirement system is required to provide the above-described notice, as well as when the retirement system must start payment of an unmodified retirement allowance, to 72 years of age. The bill would further require the retirement system at that time to make a one-time distribution of accumulated

contributions if the member is ineligible for a deferred retirement allowance, as specified. The bill would change the age threshold from 70 ½ years of age to 72 years of age with regard to requirements that apply when members cannot be located and with reference to when distributions are to be made to members who are participating in a Deferred Retirement Option Program.

(20) CERL establishes various rights to benefits that accrue to children of members and their surviving spouses under specified circumstances. In these instances, generally, these benefits will accrue provided that the children are under 18 years of age and unmarried and they continue until every child dies, marries, or attains age 18. Existing law authorizes the continuance of the benefits, in specified instances, to children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school, as specified.

This bill would revise the above-described standard applicable to children through the age of 21 to instead be up to the 22nd birthdays of the children. The bill would make a related change with regard to a provision that provides an alternative to survivorship benefits under federal social security benefits.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 22106.2 of the Education Code is amended to read:

22106.2. “Base days” means the number of days of creditable service the employer requires the member’s class of employees to perform in a school year during the member’s most recent year of creditable service to earn one year of service credit. Base days shall not include school and legal holidays and shall not be less than the minimum standard specified in Section 22138.5. For those standards identified in Section 22138.5 that are expressed only in terms of hours, the number of hours shall be divided by six to determine the number of base days. The number of base days shall not be less than 175.

SEC. 2. Section 22119.5 of the Education Code is amended to read:

22119.5. (a) “Creditable service” means any of the activities described in subdivision (b) performed for any of the following employers:

(1) A prekindergarten through grade 12 employer in a position with certification qualifications authorized by the Commission on Teacher Credentialing pursuant to Section 44001.

(2) A community college employer by a faculty member, as defined in Section 87003, in an academic position, as defined in subdivision (b) of Section 87001, or by an educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356, or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training.



(3) A charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment.

(b) The types of activities are any of the following:

(1) The work of teachers, instructors, district interns, and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupation programs, child care centers, and prekindergarten programs pursuant to Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of employees who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.

(4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to California public school curriculum.

(5) The examination, selection, in-service training, mentoring, or assignment of teachers, principals, or other similar personnel involved in the instructional program.

(6) The work of nurses, physicians, speech therapists, psychologists, audiologists, and other California public school health professionals.

(7) Services as a California public school librarian.

(8) Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.

(9) The work of employees who are responsible for the supervision of persons or administration of the duties described in this subdivision.

(c) "Creditable service" also means any of the activities described in subdivision (b) when they are performed for an employer by:

(1) Superintendents of California public schools, and presidents and chancellors of community college employers.

(2) Consulting teachers employed by an employer to participate in the California Peer Assistance and Review Program for Teachers pursuant to Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25 of Division 3 of Title 2.

(3) Audiometrists who hold a certificate of registration issued by the State Department of Health Care Services.

(d) "Creditable service" also means the performance of California public school activities related to, and an outgrowth of, the instructional and guidance program of the California public school when performed for the same employer for which the member is performing any of the activities described in subdivision (b) or (c).

(e) The board shall have final authority for determining creditable service to cover any activities not already specified.

SEC. 3. Section 22144.3 of the Education Code is amended to read:

22144.3. (a) "Leave of absence" means a period of leave to which a member is entitled that is expressly authorized or required by Chapter 4

(commencing with Section 44800) of Part 25 of Division 3 of Title 2, or Chapter 1 (commencing with Section 87000) or Chapter 3 (commencing with Section 87400) of Part 51 of Division 7 of Title 3.

(b) “Leave of absence” also means employer-approved compensated leave that is excluded under subdivision (a) that was or is taken on or after January 1, 2016.

(c) Remuneration that is paid for an employer-approved compensated leave is creditable compensation pursuant to Sections 22119.2 and 22119.3.

SEC. 4. Section 22151 of the Education Code is repealed.

SEC. 5. Section 22156.1 of the Education Code is amended to read:

22156.1. “Present value,” for purposes of Section 22718, means the amount of money needed on the effective date of retirement to reimburse the system for the actuarially determined cost of the portion of a member’s retirement allowance attributable to unused excess sick leave days. The present value on the effective date of retirement shall equal the number of unused excess sick leave days divided by the number of base days, as defined in Section 22106.2, multiplied by the prior year’s compensation earnable multiplied by the present value factor.

SEC. 6. Section 22170.5 of the Education Code is amended to read:

22170.5. (a) “Sick leave days” means the number of days of accumulated and unused leave of absence for illness or injury granted by each employer.

(b) “Basic sick leave day” means the days of paid leave of absence due to illness or injury granted by each employer that are not excess sick leave days.

(c) “Excess sick leave days” means the day or total number of days of paid leave of absence due to illness or injury granted by each employer in excess of 12 days per school year.

(d) For those standards identified in Section 22138.5 that are expressed only in terms of hours, the number of hours shall be divided by six to determine the number of days pursuant to this section.

SEC. 7. Section 22501 of the Education Code is amended to read:

22501. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a full-time basis shall become a member as of the first day of employment, unless excluded from membership pursuant to Section 22601.

(b) Creditable service in more than one position shall not be aggregated for the purpose of determining mandatory membership under this section.

(c) This section shall be deemed to have become operative on July 1, 1996.

SEC. 8. Section 22509 of the Education Code is amended to read:

22509. (a) Within 10 working days of the date of hire of an employee who has the right to make an election pursuant to Section 22508 or 22508.5, the employer shall inform the employee of the right to make an election and shall make available to the employee written information provided by each retirement system concerning the benefits provided under that retirement system to assist the employee in making an election.

(b) Any election made pursuant to subdivision (a) of Section 22508 or subdivision (a) of Section 22508.5 shall be made in writing on a properly executed form prescribed by the system within 60 calendar days from the date of hire in the position requiring membership in the other public retirement system and shall be received at the system's headquarters office within 60 calendar days after the date of the employee's signature. The employer shall retain a copy of the employee's signed election form and submit the original signed election form to the system's headquarters office.

(c) Any election made pursuant to subdivision (c) of Section 22508 or subdivision (b) of Section 22508.5 shall be filed with the office of the Public Employees' Retirement System.

(d) Any election made pursuant to Section 22508 or Section 22508.5 shall become effective as of the first day of employment in the position that qualified the employee to make an election.

SEC. 9. Section 22711 of the Education Code is amended to read:

22711. (a) An elected officer of an employee organization that is on a compensated leave of absence pursuant to Section 44987 or 87768.5 shall be entitled to the service credit, compensation earnable, interest, and additional earnings credits under this part that they otherwise would have been due had the member not been on the compensated leave of absence, if all of the following conditions are met:

(1) The member was employed and performed creditable service subject to coverage under this Defined Benefit Program in the month prior to commencement of the leave of absence.

(2) The member makes contributions to the Teachers' Retirement Fund in the amount that the member would have contributed had the member performed creditable service during the period the member served as an elected officer of the employee organization.

(3) The member's employer contributes to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member had the member performed creditable service during the period the member served as an elected officer of the employee organization.

(b) The maximum service credit a member may receive pursuant to this section shall not exceed 12 years.

SEC. 10. Section 22714 of the Education Code is amended to read:

22714. (a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action, determines pursuant to Section 44929 or 87488 that, because of impending curtailment of, or changes in, the manner of performing services, the best interests of the district or county office of education would be served by encouraging certificated employees or academic employees to retire for service and that the retirement will result in a net savings to the district or county office of education, an additional two years of service credit shall be granted under this part to a member of the Defined Benefit Program if all of the following conditions exist:

(1) The member is credited with five or more years of service credit and retires for service under Chapter 27 (commencing with Section 24201) during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period.

(2) The documentation required by this section is received by the system no later than 30 calendar days after the last day of the window period established in paragraph (1).

(3) (A) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund shall be made in a manner and a time period, not to exceed eight years, that is acceptable to the Teachers' Retirement Board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

(B) Regular interest shall be charged on the unpaid balance if the employer makes the transfer to the retirement fund in installments.

(4) The employer transmits to the retirement fund the administrative costs incurred by the system in implementing this section, as determined by the Teachers' Retirement Board.

(5) The employer has considered the availability of teachers or academic employees to fill the positions that would be vacated pursuant to this section.

(b) (1) The school district shall demonstrate and certify to the county superintendent that the formal action taken would result in a net savings to the district.

(2) The county superintendent shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 14502.1.

(3) The school district shall reimburse the county superintendent for all costs to the county superintendent that result from the certification.

(c) (1) The county office of education shall demonstrate and certify to the Superintendent of Public Instruction that the formal action taken would result in a net savings to the county office of education.

(2) The Superintendent of Public Instruction shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 14502.1.

(3) The Superintendent of Public Instruction may request reimbursement from the county office of education for all administrative costs that result from the certification.

(d) (1) The community college district shall demonstrate and certify to the chancellor's office that the formal action taken would result in a net savings to the district.

(2) The chancellor shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 84040.5.

(3) The chancellor may request reimbursement from the community college district for all administrative costs that result from the certification.

(e) The opportunity to be granted service credit pursuant to this section shall be available to all members employed by the school district, community college district, or county office of education who meet the conditions set forth in this section.

(f) The amount of service credit shall be two years.

(g) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who subsequently reinstates shall forfeit the service credit granted under this section.

(h) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who takes any job as an employee, independent contractor, or as an employee of a third party with the school district, community college district, or county office of education that granted the member the service credit less than five years after receiving the credit shall forfeit the ongoing benefit the member receives from the additional service credit granted under this section.

(i) This section does not apply to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part within one year following the effective date of the formal action under subdivision (a), or if the member is not otherwise eligible to retire for service.

SEC. 11. Section 22717 of the Education Code is amended to read:

22717. (a) Upon certification by the employer or employers, a member shall be granted credit at service retirement for each day of accumulated and unused sick leave days for which full salary is allowed and to which the member was entitled on the member's final day of employment with the employer or employers subject to coverage by the Defined Benefit Program during the last school term in which the member earned creditable compensation pursuant to Section 22119.2 or 22119.3. The system shall accept certification from each employer with which the member has accumulated sick leave days for that period, provided this leave has not been transferred to another employer.

(b) The amount of service credit to be granted shall be determined by dividing the number of accumulated, unused sick leave days by the number of base days, as defined in Section 22106.2.

(c) For members who are last employed with the state in a position in which there are no contracted base service days, the amount of service credit to be granted shall be 0.004 years of service for each day of unused sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of the member's employment subject to coverage by the Defined Benefit Program.

(d) When the member has made application for service retirement under this part, the employer shall certify to the board, within 30 days following the effective date of the member's service retirement or the date the application for retirement is received by the system's headquarters office, whichever is later, the number of days of accumulated and unused sick leave days that the member was entitled to on the final day of employment. The board may assess a penalty on delinquent reports.

(e) The member shall not receive credit for accumulated unused sick leave days if the member receives service credit in another public retirement system for the same unused sick leave days.

(f) This section shall be applicable to any person who retires on or after January 1, 1999.

SEC. 12. Section 22718 of the Education Code is amended to read:

22718. (a) The Teachers' Retirement Board shall bill school employers for service credit granted for unused excess sick leave under this part, subject to the following provisions:

(1) (A) In addition to the certification of unused basic sick leave days, the employer shall also certify the number of unused excess sick leave days.

(B) Excess sick leave days granted by an employer other than the member's last employer shall be deemed to be granted by the last employer and shall be included in the certification if the member was eligible to use those excess sick leave days while the member was employed by the last employer. If, during the last year a member is employed to perform creditable service subject to coverage by the Defined Benefit Program, that member is employed by more than one employer, unused excess sick leave days shall be certified and paid for by the employer for the period in which the member was eligible to use those excess sick leave days.

(2) The employer shall be billed only for the present value of the unused excess sick leave days and any subsequent adjustments to the billing shall be billed or returned, as appropriate, to the employer.

(3) (A) The employer shall remit the amount billed to the system with the certification required by Section 22717 within 30 days after the effective date of the member's retirement or within 30 days after the date the system has notified the employer that a certification must be made, whichever is later.

(B) If payment is not received within 30 calendar days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(C) If the system has billed the employer for an additional amount, the employer shall remit the additional amount within 30 calendar days after the date of the billing. If payment is not received for the additional amount within 30 calendar days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(b) If a school employer fails to pay a bill charged according to subdivision (a), the Teachers' Retirement Board may request the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, to reduce state apportionments to the school employer by an amount equal to the amount billed. The Superintendent or chancellor shall make the reduction, and if requested by the board, direct the Controller to reduce the amount transferred from the General Fund to Section A or Section B, as appropriate, of the State School Fund by an equal amount, which shall instead be transferred to the Teachers' Retirement Fund.

SEC. 13. Section 23011 is added to the Education Code, to read:

23011. Penalties and interest due to the system pursuant to Section 23003, 23006, or 23008 are additional required contributions that, when received, shall be deposited to the Teachers' Retirement Fund and treated in the same manner as other contributions.

SEC. 14. Section 24204 of the Education Code is amended to read:

24204. (a) A service retirement allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for service retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance.

(2) The effective date is later than the last day the member earned creditable compensation pursuant to Section 22119.2 or 22119.3.

(3) The effective date is no earlier than one day after the date on which the retirement allowance was terminated under Section 24208.

(4) The effective date is no earlier than one year following the date on which the retirement allowance was terminated under subdivision (a) of Section 24117.

(5) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(6) The effective date is no earlier than one day after the date upon which the member completes payment of a service credit purchase pursuant to Section 22801, 22820, or 22826, or payment of a redeposit of contributions pursuant to Section 23200, except as provided in Section 22801 or 22829.

(b) A member who files an application for service retirement may change or cancel their retirement application if all of the following are met:

(1) The form provided by the system is received in the system's headquarters office no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system.

(2) The member returns the total gross distribution amount of all payments for any canceled retirement benefit, including a lump-sum payment being changed to an annuity, to the system's headquarters office no later than 45 days from the date of the member's initial benefit payment. The member shall be liable for any adverse tax consequences that may result from these actions.

(c) The retirement date of a member who files an application for retirement pursuant to Section 24201 on or after January 1, 2012, shall be no earlier than January 1, 2012.

(d) Nothing in this section shall be construed to allow a member to receive more than one type of retirement or disability allowance for the same period of time by virtue of the member's own membership.

SEC. 15. Section 25025 of the Education Code is amended to read:

25025. (a) A termination benefit under the Defined Benefit Supplement Program shall be payable after 180 calendar days have elapsed following the date the member terminated employment as specified in Section 25024.

(b) Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled if the member performs creditable service within 180 calendar days following the date of termination of employment.

(c) Subdivision (b) does not apply if the member has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A member who has reached this age shall receive a distribution commencing on the earlier of the date that the member has met the conditions of subdivision (a) or the conditions of subdivision (h) of Section 24600.

SEC. 16. Section 26113 of the Education Code is amended to read:

26113. (a) "Creditable service" means any of the activities described in subdivision (b) performed for any of the following employers:

(1) A prekindergarten through grade 12 employer in a position with certification qualifications authorized by the Commission on Teacher Credentialing pursuant to Section 44001.

(2) A community college employer by a faculty member, as defined in Section 87003, in an academic position, as defined in subdivision (b) of Section 87001, or by an educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356, or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training.

(3) A charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment.

(b) The types of activities are any of the following:



(1) The work of teachers, instructors, district interns, and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupational programs, child care centers, and prekindergarten programs pursuant to Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of employees who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.

(4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to California public school curriculum.

(5) The examination, selection, in-service training, mentoring, or assignment of teachers, principals, or other similar personnel involved in the instructional program.

(6) The work of nurses, physicians, speech therapists, psychologists, audiologists, and other California public school health professionals.

(7) Services as a California public school librarian.

(8) Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.

(9) The work of employees who are responsible for the supervision of persons or administration of the duties described in this subdivision.

(10) Trustee service as described in Section 26403.

(c) “Creditable service” also means any of the activities described in subdivision (b) when they are performed for an employer by:

(1) Superintendents of California public schools, and presidents and chancellors of community college employers.

(2) Consulting teachers employed by an employer to participate in the California Peer Assistance and Review Program for Teachers pursuant to Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25 of Division 3 of Title 2.

(3) Audiometrists who hold a certificate of registration issued by the State Department of Health Care Services.

(d) “Creditable service” also means the performance of California public school activities related to, and an outgrowth of, the instructional and guidance program of the California public school when performed for the same employer for which the member is performing any of the activities described in subdivision (b) or (c).

(e) The board shall have final authority for determining creditable service to cover activities not already specified.

SEC. 17. Section 26303.7 is added to the Education Code, to read:

26303.7. Penalties and interest due to the system pursuant to Section 26301 or 26303 are additional required contributions that, when received, shall be deposited to the Teachers’ Retirement Fund and treated in the same manner as other contributions.

SEC. 18. Section 26801 of the Education Code is amended to read:

26801. Except as provided under Section 26802, a participant's retirement date shall not be earlier than either the date on which the participant attains 55 years of age or the first day of the month in which an application is received at the system's headquarters office, whichever is later.

SEC. 19. Section 26803 of the Education Code is amended to read:

26803. (a) All creditable service subject to coverage by the Cash Balance Benefit Program and all service with the participant's last employer or employers that is creditable under the Defined Benefit Program shall be terminated prior to the retirement date.

(b) All employers with which the participant is employed to perform creditable service subject to coverage by the plan shall certify in a format prescribed by the system that the participant's employment has been terminated unless the employment was terminated 12 months or more prior to the participant's retirement date.

SEC. 20. Section 26804 of the Education Code is amended to read:

26804. Application for a retirement benefit under this part shall be made on a form prescribed by the system. A participant who files an application for a retirement benefit may change or cancel the retirement application if all of the following are met:

(a) The form provided by the system is received in the system's headquarters office no later than 30 days from the date of the member's initial benefit payment.

(b) The participant returns the total gross distribution amount for any canceled retirement benefit, including a lump-sum payment being changed to an annuity, to the system's headquarters office no later than 45 days from the date of the participant's initial benefit payment. The participant shall be liable for any adverse tax consequences that may result from these actions.

SEC. 21. Section 26808 of the Education Code is amended to read:

26808. (a) The annuity elected under this chapter shall be determined as a value actuarially equivalent to the sum of the employee account and the employer account as of the retirement date. The annuity shall be calculated using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the retirement date.

(b) In the case of a participant who previously received an annuity that was terminated pursuant to Section 26810, the portion of the annuity derived from the amounts credited to the employee account and employer account as of the date the participant terminates the annuity shall be calculated using the actuarial assumptions in effect on the previous retirement date using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the current retirement date.

SEC. 22. Section 26810 of the Education Code is amended to read:

26810. (a) A participant who is employed to perform creditable service subject to coverage by the Cash Balance Benefit Program while receiving an annuity under the program may terminate the annuity upon written request to the system, effective upon a date designated by the participant, and make

contributions to the program based on salary paid by the employer for the employment, subject to the following conditions:

(1) The request for termination of the annuity is filed on a form prescribed by the system, and the form is executed no earlier than six months before the effective date of the termination.

(2) The effective date of the termination of the annuity shall be no earlier than the first day of the month in which the request for termination is received in the system's headquarters office.

(b) A participant who files a request for termination of the annuity may cancel or change the termination upon written request to the system. The request for cancellation or change must be on a form provided by the system and shall be received in the system's headquarters office no later than the last day of the month in which the request for termination to be canceled or changed is effective.

(c) Upon termination of the annuity, the employee and employer account of the participant shall be credited with respective balances that reflect the actuarial equivalent of the participant's retirement benefit as of the date the participant terminates the annuity and the Annuitant Reserve shall be reduced by the amount of the credits.

(d) Upon election of a subsequent annuity, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

SEC. 23. Section 27204 of the Education Code is amended to read:

27204. (a) The termination benefit under this part shall not be payable before 180 calendar days have elapsed following the date of termination of employment.

(b) Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled if the participant performs creditable service within 180 calendar days following the date of termination of employment.

(c) Subdivision (b) does not apply if the participant has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A participant who has reached this age shall receive a distribution commencing on the earlier of the date that the participant has met the conditions of subdivision (a) or the conditions of subdivision (c) of Section 26004.

SEC. 24. Section 20230 of the Government Code is amended to read:

20230. (a) Data filed with the board by or on behalf of any member, retired member, beneficiary, or annuitant is confidential, and an individual record shall not be divulged by any official or employee having access to it to any person other than the following:

(1) The member, retired member, beneficiary, or annuitant to whom the information relates; their authorized representative; or upon written authorization by the member, retired member, beneficiary, or annuitant to whom the information relates.

(2) A contracting agency, county office of education, school district, community college district, the California State University, or the university,

if the member, retired member, beneficiary, or annuitant is or was employed by that entity. A contracting agency, county office of education, school district, community college district, the California State University, or the university may also be provided with records that relate to the beneficiary of a member or retired member who is or was employed by the entity.

(3) Any state department or agency.

(4) Any other California public retirement system that either by statute or agreement provides reciprocal benefits to members of the system.

(b) The information shall be used by the board for the sole purpose of carrying into effect the provisions of this part and Part 5 (commencing with Section 22750). Any information that is requested to which this section applies shall be treated as confidential and shall be used solely for retirement purposes, including, but not limited to, the administration and funding of retirement and health benefits, and related reporting and notice obligations.

(c) The gross amount of any benefit or any refund of a PERS contribution due to a member, retired member, or beneficiary under this part is not confidential and may be released upon request to the board.

(d) The board may seek reimbursement for reasonable administrative expenses incurred when providing information. Unless otherwise required by law, pursuant to a court order of competent jurisdiction, or except as provided by this section, a member's, retired member's, beneficiary's, or annuitant's address, home telephone number, or other personal information shall not be released.

(e) For purposes of this section:

(1) "Annuitant" has the meaning provided in Section 22760.

(2) "Authorized representative" includes a spouse or a beneficiary if a contrary appointment has not been made and when, in the opinion of the board, the member, retired member, beneficiary, or annuitant is prevented from appointing an authorized representative because of mental or physical incapacity or death.

SEC. 25. Section 20731 of the Government Code is amended to read:

20731. (a) Notwithstanding any other provision of this part, a member who is credited with less than the years of service specified in Article 1 (commencing with Section 21060) of Chapter 12 who enters employment as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System, or as a member of a county retirement system, within six months of leaving state service, shall have the right to elect to leave accumulated contributions on deposit in the 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. This section shall also apply to a member who is subject to Section 21076 or 21076.5.

(b) (1) An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time, except any of the following:

(A) While the member is employed in state service in a position in which the member is not excluded from membership with respect to that service.

(B) While the member is in service as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System.

(C) While the member is in service, entered within six months after discontinuing state service, as a member of a county retirement system.

(2) All accumulated contributions in a member's account up to the time of revocation shall be distributed in accordance with an election pursuant to Section 20735.

(3) A member who is permanently separated from all service covered by the system, who is not subject to paragraph (1), and who attains 71 ½ years of age shall be provided with an election to withdraw contributions or, if vested, an election to either apply for service retirement or to withdraw contributions. Failure to apply for service retirement or to make an election to withdraw contributions within 90 days shall be deemed an election to withdraw contributions. If the person fails to either apply for service retirement or elect to withdraw contributions, or cannot, with reasonable diligence, be located, the accumulated contributions shall be distributed in accordance with Section 21500.

(c) A member whose membership continues under this section is subject to the same age and disability requirements as apply to other members for service or for 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, or 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, except that the provisions in this part for minimum service and disability retirement allowances shall not apply to the member, unless the member meets the minimum service requirements. If a basic death benefit becomes payable under Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), and Article 5 (commencing with Section 21620) of Chapter 14 because of death before retirement of a member, the average annual compensation earnable in the year preceding the date of termination of that service, rather than in the year preceding death, shall be used in computing the benefit under Articles 1, 2, and 5 of Chapter 14.

The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on that date.

SEC. 26. Section 22772 of the Government Code is amended to read:  
22772. (a) "Employee" means:

(1) An officer or employee of the state or of any agency, department, authority, or instrumentality of the state, including the University of California.

(2) An employee who is employed by a contracting agency and participates in a publicly funded retirement system provided by the contracting agency, or an officer or official of a contracting agency.

(3) An annuitant receiving a retirement allowance pursuant to Section 21232 who is employed by a contracting agency.

(4) A teaching associate, lecturer, coach, or interpreter employed by the California State University who is appointed to work in an academic year classification for at least six weighted teaching units for one semester, or for at least six weighted teaching units for two or more consecutive quarter terms. This paragraph does not apply to a state member employed by the California State University, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

(5) All employees in job classes specified in subdivision (a) of Section 14876.

(6) An individual not described in paragraphs (1) to (5), inclusive, who is both of the following:

(A) A “full-time employee” of the state or a contracting agency within the meaning of Section 4980H of Title 26 of the United States Code and applicable United States Treasury Department regulations and interpretive guidance.

(B) Designated in writing as an employee for purposes of this section by the state or the contracting agency, as applicable.

(b) Except as otherwise provided by this part, “employee” does not include any of the following:

(1) A person employed on an intermittent, irregular, or less than half-time basis, or an employee similarly situated.

(2) A National Guard member described in Section 20380.5.

SEC. 27. Section 22960.95 of the Government Code is amended to read:

22960.95. Notwithstanding any other provision of this part, a participant, nonparticipant spouse, or beneficiary shall not be permitted to elect a distribution under this part that does not satisfy the requirements of Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)G and the regulations thereunder. The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(a) In the case of a lump-sum distribution to the participant, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 72 years or the calendar year in which the participant terminates all employment for the employer.

(b) In the case of a distribution to the participant in the form of installment payments or an annuity, payment shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 72 years or the calendar year in which the participant terminates all employment subject to coverage by the plan.

(c) In the case of a benefit payable on account of the participant's death, distributions shall be paid no later than December 31 of the calendar year in which the fifth anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions must commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(2) December 31 of the calendar year in which the participant would have attained the age of 72 years.

SEC. 28. Section 22970.85 of the Government Code is amended to read:

22970.85. Notwithstanding any other provision of this part, a participant or beneficiary shall not be permitted to elect a distribution under this part that does not satisfy the requirements of paragraph (9) of subsection (a) Section 401 of Title 26 of the United States Code, including the incidental death benefit requirements of subparagraph (G) of paragraph (9) of subsection (a) of Section 401 and the regulations thereunder. The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(a) In the case of a lump sum distribution to the participant, the lump sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 72 years or the calendar year in which the participant terminates employment.

(b) In the case of a distribution to the participant in the form of periodic payments, payment shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 72 years or the calendar year in which the participant terminates employment.

(c) In the case of a benefit payable on account of the participant's death after distributions to the participant have commenced in the form of periodic payments, the remainder of the participant's account shall be distributed at least as rapidly as if the participant had not died.

(d) In the case of a benefit payable on account of the participant's death before distributions to the participant have commenced, distributions shall be paid no later than December 31 of the calendar year in which the fifth anniversary of the participant's date of death occurs unless the benefit is paid over a period not extending beyond the life expectancy of the beneficiary and distributions commence not later than December 31 of the calendar year immediately following the calendar year in which the participant died, or in the event that the beneficiary is the participant's spouse, distributions must commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(2) December 31 of the calendar year in which the participant would have attained the age of 72 years.

SEC. 29. Section 31454.7 is added to the Government Code, to read:

31454.7. The Legislature affirms the ruling of *Mijares v. Orange County Employees' Retirement System* (2019) 32 Cal.App.5th 316, with respect to a board's plenary authority to recommend adjustments to county and district contributions as necessary to ensure the appropriate funding of the system, and with respect to the mandate of Section 31454 that the county and districts adjust the rates of contributions of members and appropriations in accordance with the board's recommendations. Under all circumstances, the county and districts shall each remain liable to the retirement system for their respective share of any unfunded actuarial liability of the system, as determined by the board.

SEC. 30. Section 31465 of the Government Code is amended to read:

31465. "Additional contributions" means contributions made by members in addition to normal contributions under Section 31627.

SEC. 31. Section 31627.1 of the Government Code is amended to read:

31627.1. A member who has additional contributions under Section 31627 may, within 30 days prior to retirement, elect in writing to have all or any part of the member's accumulated additional contributions returned to the member. The portion returned shall not be included in the calculation of the member's annuity.

SEC. 32. Section 31627.2 of the Government Code is amended to read:

31627.2. In any county in which the provisions of Section 31676.1 apply, any member who has additional contributions under Section 31627 may elect in writing to have all or any part of the member's accumulated additional contributions returned to the member. The portion returned shall not be included in the calculation of the member's annuity. The board may order payment in whole or in part withheld for a period not to exceed 90 days after receipt of such written election.

SEC. 33. Section 31631.5 of the Government Code is amended to read:

31631.5. (a) (1) Notwithstanding any other provision of this chapter, a board of supervisors or the governing body of a district may require that members pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 14 percent above the applicable normal rate of contribution of members established pursuant to this article for local general members, no more than 33 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 31639) for local police officers, local firefighters, county peace officers, and no more than 37 percent above the applicable normal rate of contribution of members established pursuant to Article 6.8 (commencing with Section 31639) for all local safety members other than police officers, firefighters, and county peace officers.

(2) Before implementing any change pursuant to this subdivision for any represented employees, the public employer shall complete the good faith bargaining process as required by law, including any impasse procedures requiring mediation and factfinding. This subdivision shall become operative on January 1, 2018. This subdivision shall not apply to any bargaining unit when the members of that unit are paying at least 50 percent of the normal cost of their pension benefit or are subject to an agreement reached pursuant



to paragraph (1). Applicable normal rate of contribution of members means the statutorily authorized rate applicable to the member group as the statutes read on December 31, 2012.

(b) Nothing in this section shall modify a board of supervisors' or the governing body of a district's authority under law as it existed on December 31, 2012, including any restrictions on that authority, to change the amount of member contributions.

SEC. 34. Section 31641.45 of the Government Code is amended to read:

31641.45. Whenever a member is entitled to redeposit funds previously withdrawn from a retirement system and thereby becomes eligible to receive a pension or retirement allowance for the service for which the member was granted public service credit as authorized in Section 31641.1, regardless of whether or not the member elects to exercise such entitlement, the member shall be refunded the amount deposited by the member in accordance with Section 31641.2 plus interest which has been credited to such amount and shall receive no credit in the system for such service.

This section applies only to a member who would be eligible to receive the benefit of Section 31835 or 20638 on making the redeposit.

SEC. 35. Section 31646 of the Government Code is amended to read:

31646. (a) A member who returns to active service following an uncompensated leave of absence on account of illness may receive service credit for the period of the absence upon the payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(b) (1) A member who returns to active service following an uncompensated leave of absence on account of parental leave may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. For purposes of this subdivision, parental leave is defined as any time, up to one year, during which a member is granted an approved maternity or paternity leave and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

(2) This subdivision shall not be operative until the board of supervisors, by resolution adopted by majority vote, makes the provisions applicable to that county and applies it to parental leave that commences after the adoption by the board of supervisors.

SEC. 36. Section 31649 of the Government Code is repealed.

SEC. 37. Section 31649 is added to the Government Code, to read:

31649. (a) This chapter shall comply with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as amended from time to time. Any member who was absent from county or district employment for military service and is eligible for reemployment benefits pursuant to USERRA, may, as provided in USERRA, make contributions and receive service credit for the time absent.

(b) Any member who does not qualify for reemployment benefits under subdivision (a) due to the length of the military service, and who returns to county or district employment within one year of being honorably discharged from the Armed Forces of the United States, shall receive credit for service for all or any part of the member's military service, if, before retirement from the county or district, the member contributes what they would have paid to the fund for that period based on the member's compensation earnable, as defined by Section 31461, or pensionable compensation, as defined in Section 7522.34, whichever is applicable, at the time of the beginning of the absence together with applicable interest on that amount.

(c) Nothing in this section shall affect any arrangement to pay contributions pursuant to Section 31653.

SEC. 38. Section 31649.5 of the Government Code is repealed.

SEC. 39. Section 31649.6 of the Government Code is repealed.

SEC. 40. Section 31650 of the Government Code is repealed.

SEC. 41. Section 31651 of the Government Code is repealed.

SEC. 42. Section 31662.2 of the Government Code is amended to read:

31662.2. (a) Retirement of a safety member in a county subject to the provisions of Section 31676.1, or of Section 31695.1, if applicable, who has met the requirements for age and service shall be made by the board pursuant to this article or pursuant to the California Public Employees' Pension Reform Act of 2013, whichever is applicable.

(b) The board may authorize the system administrator or other personnel to exercise the board's power and perform its duty to retire members under this section. The system administrator or other personnel shall report service retirements to the board at the next public meeting of the board after the retirement.

SEC. 43. Section 31670 of the Government Code is amended to read:

31670. (a) Retirement of a member who has met the requirements for age and service shall be made by the board pursuant to this article or pursuant to the California Public Employees' Pension Reform Act of 2013, whichever is applicable.

(b) The board may authorize the system administrator or other personnel to exercise the board's power and perform its duty to retire members under this section. The system administrator or other personnel shall report service retirements to the board at the next public meeting of the board after the retirement.

SEC. 44. Section 31672 of the Government Code is amended to read:

31672. (a) A member who has reached 70 years of age or a member who has completed 10 years of service and who has reached 55 years of age, or a member who has completed 30 years of service regardless of age, may be retired upon filing with the board a written application, setting forth the date upon which the member desires the member's retirement to become effective. Fifty-five years of age in the preceding sentence may be reduced to 50 years of age in a county by resolution of the board of supervisors. The effective retirement date shall not be either of the following:

- (1) Earlier than the date the application is filed with the board.
- (2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(b) This section shall not apply to any member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) for all or any portion of that member's membership in the county retirement system.

SEC. 45. Section 31672.1 of the Government Code is amended to read:

31672.1. (a) An employee who has reached 55 years of age has held a position in the county service for 10 years, and on the date of retirement is employed in a temporary, seasonal, intermittent, or part-time position in which the employee has received credit for five full years of service, may be retired upon filing with the board a written application, setting forth the date upon which the employee desires the employee's retirement to become effective. Fifty-five years of age in the preceding sentence may be reduced to 50 years of age in any county by resolution of the board of supervisors if such reduction has also been made under Section 31672. The effective retirement date shall not be either of the following:

- (1) Earlier than the date the application is filed with the board.
- (2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(b) This section shall not apply to a member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 for all or any portion of their membership in the county retirement system.

SEC. 46. Section 31672.2 of the Government Code is amended to read:

31672.2. (a) An elective officer who filed a declaration with the board to become a member, pursuant to Section 31553, who has served two complete consecutive terms in an elective office, and who has reached the minimum age for retirement provided in Section 31672, may be retired upon filing with the board a written application setting forth the date upon which the member desires the member's retirement to become effective. The effective retirement date shall not be either of the following:

- (1) Earlier than the date the application is filed with the board.
- (2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

(b) This section shall become operative only in any county of the 16th class, as defined by Section 28020 and 28037, as amended by Chapter 1204

of the Statutes of 1971, and on the first day of the calendar month after the board of supervisors adopts a resolution making it operative in the county.

(c) This section shall not apply to an elective officer who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 for all or any portion of the elective officer's membership in the county retirement system.

SEC. 47. Section 31672.3 of the Government Code is amended to read:

31672.3. A member of a county retirement system who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) for all or a portion of the member's membership in the county retirement system who has completed five years of service and has reached the minimum retirement age applicable to that member under the act, or has reached 70 years of age, may be retired upon filing with the board a written application, setting forth the date upon which the member desires the member's retirement to become effective. The effective retirement date shall not be either of the following:

- (1) Earlier than the date the application is filed with the board.
- (2) More than 60 days after the date of filing the application or more than a number of days that has been approved by the board.

SEC. 48. Section 31680.10 is added to the Government Code, to read:

31680.10. (a) A person who has been retired under this chapter for service following an involuntary termination of their employment, and who is subsequently reinstated to that employment pursuant to an administrative or judicial proceeding that is final and not subject to appeal, shall be reinstated from retirement as if there were no intervening period of retirement. Except as provided in subdivision (b), the requirements of Sections 31680.4, 31680.5, and 31680.7 shall not apply to that reinstatement.

(b) The allowance received by the person during retirement shall be repaid by the person to the retirement system from which they retired in accordance with the retirement system's repayment policy.

(1) Member contributions shall be made for any period for which salary is awarded in the administrative or judicial proceedings in the amount that would have been contributed had the member's employment not been terminated, and the person shall receive credit for the period for which salary is awarded. If the person fails to repay the allowance received during retirement, then the person's contributions and allowance upon retirement subsequent to reinstatement shall be calculated under Sections 31680.5 or 31680.7, as applicable.

(2) The retirement system shall have discretion regarding the timing of repayment of employer contributions for the period described in paragraph (1).

(c) As used in this section, "administrative proceeding" means the process for appeal of an involuntary termination established by county or district ordinance or charter.

(d) This section shall only apply to persons reinstated to employment by final action as described in subdivision (a), on or after the effective date of this section, pursuant to an administrative or judicial proceeding.

SEC. 49. Section 31706 of the Government Code is amended to read:

31706. Any member who has left county service and has elected to leave accumulated contributions in the retirement fund, or who is deemed to have elected a deferred retirement pursuant to subdivision (b) of Section 31700, and who has attained 70 years of age but has not yet applied for a deferred retirement allowance, and who is not a reciprocal member of a retirement system established pursuant to this chapter or the Public Employees' Retirement Law, shall be notified in writing by the treasurer, or other entity authorized by the board, that the member is eligible to apply for, and shall begin receiving, either a deferred retirement allowance by April 1 of the year following the year in which the member attains 72 years of age or a one-time distribution of all accumulated contributions and interest. The notification shall be made at the time the deferred member attains 70 years of age and shall be sent by certified mail to the member's last known address, or to the member's last known employer, as shown by the records of the retirement system. If the member can be located but does not make proper application for a deferred retirement allowance with retirement to be effective by April 1 of the year following the year in which the member attains 72 years of age, the retirement system shall commence paying either an unmodified allowance to the member, if the member was eligible to begin receiving a deferred retirement allowance under the provisions of 31485.22, or a one-time distribution of all accumulated contributions and interest if the member is otherwise ineligible for a deferred retirement allowance. If the member cannot be located by April 1 of the year following the year in which the member attains 72 years of age, all of the member's accumulated contributions and interest thereon shall be deposited in, and become a part of, the current pension reserve fund of the retirement system. The board may at any time after transfer of proceeds to the reserve fund upon receipt of proper information satisfactory to it, redeposit the proceeds to the credit of the claimant, to be administered in the manner provided under this law. This section shall not apply to a member while the member is actively employed past mandatory retirement age in a retirement system established under the provisions of this chapter or the Public Employees' Retirement Law.

SEC. 50. Section 31760.1 of the Government Code is amended to read:

31760.1. Upon the death of any member after retirement for service or non-service-connected disability from a retirement system established in a county subject to the provisions of Section 31676.1, 60 percent of the member's retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued throughout life to the member's surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if the surviving spouse dies before every natural or adopted child of the deceased member attains the age of 18 years, then the allowance which the surviving spouse would have

received had the surviving spouse lived, shall be paid to the surviving spouse's natural or adopted child or children under that age collectively, to continue until every child dies or attains that age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless the surviving spouse was married to the member at least one year prior to the date of the member's retirement. The right of a child or children of a deceased member to receive an allowance under this section, in the absence of an eligible surviving spouse, shall not be dependent on whether the child or children were nominated by the deceased member as the beneficiary of any benefits payable upon or by reason of the member's death, and shall be superior to and shall supersede the rights and claims of any other beneficiary so nominated.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

If at the death of any retired member there is no surviving spouse or minor children eligible for the 60-percent continuance provided in this section, and the total retirement allowance income received by the member during the member's lifetime did not equal or exceed the member's accumulated normal contributions, the member's designated beneficiary shall be paid an amount equal to the excess of the member's accumulated normal contributions over the member's total retirement allowance income.

The superseding rights pursuant to this section shall not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

SEC. 51. Section 31760.2 of the Government Code is amended to read:

31760.2. (a) Notwithstanding Section 31481 or 31760.1, upon the death of any member after retirement for service or non-service-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of the member's retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued to the member's surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if the surviving spouse dies before every child of the deceased member attains the age of 18 years, then the allowance that the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless the surviving spouse was married to the member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

(c) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school, as determined by the board.

(d) If at the death of any retired member there is no surviving spouse or minor children eligible for the 60-percent continuance provided in this section and the total retirement allowance income received by the retired member during the member's lifetime did not equal or exceed the member's accumulated normal contributions, the retired member's designated beneficiary shall be paid an amount equal to the excess of the member's accumulated normal contributions over the member's total retirement allowance income.

(e) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31760.1.

(f) The superseding rights pursuant to this section do not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(g) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

SEC. 52. Section 31765 of the Government Code is amended to read:

31765. Upon the death of a member who was eligible to retire, in circumstances in which a death benefit is payable under Article 12, if the deceased member has designated as beneficiary the member's spouse who survives the member by not less than 30 days, such surviving spouse may elect, at any time before acceptance of any benefits from the retirement system, to receive, in lieu of the death benefit otherwise payable under Article 12, the same retirement allowance as that to which such spouse would have been entitled had such member retired on the day of the member's death and selected Optional Settlement 3. Such surviving spouse may elect in writing, before the first payment of any allowance is made, to receive in a lump sum payment all or any part of the member's accumulated additional contributions. The sum so paid shall not be included in the calculation of the annuity of the surviving spouse.

If, at the death of such spouse, the spouse is survived by one or more unmarried children of such member, under the age of 18, such retirement allowance shall continue to such child or children, collectively, until every child dies, marries, or attains age 18. If such spouse dies, either before or after the death of such member without either making such election or receiving any portion of the death benefit, and no part of the death benefit has been paid to any person, prior to the payment of any benefits, the legally appointed guardian of such children shall make the election herein provided for on behalf of such surviving children as in the guardian's judgment may

appear to be in their interest and advantage and the election so made shall be binding and conclusive upon all parties in interest.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

SEC. 53. Section 31765.1 of the Government Code is amended to read:

31765.1. Upon the death of any member of a retirement system established in a county subject to the provisions of Section 31676.1 or Section 31695.1, eligible for retirement pursuant to Article 7.5, 8, or 8.7 who leaves a spouse designated as beneficiary, such surviving spouse may, in lieu of the death benefit provided for in Article 12, elect to receive a retirement allowance equal to 60 percent of the amount to which the member would have been entitled had the member retired on the date of the member's death with a retirement allowance not modified in accordance with one of the optional settlements specified in Article 11. Such surviving spouse may elect in writing, before the first payment of any allowance is made, to receive in a lump sum payment all or any part of the member's accumulated additional contributions. The sum so paid shall not be included in the calculations of the annuity of the surviving spouse.

If, at the death of such spouse, the spouse is survived by one or more unmarried children of such member, under the age of 18, such retirement allowance shall continue to such child or children, collectively, until every child dies, marries, or attains age 18. If such spouse dies, either before or after the death of such member without either making such election or receiving any portion of the death benefit, and no part of the death benefit has been paid to any person, prior to the payment of any benefits, the legally appointed guardian of such children shall make the election herein provided for on behalf of such surviving children as in the guardian's judgment may appear to be in their interest and advantage and the election so made shall be binding and conclusive upon all parties in interest.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

SEC. 54. Section 31776.3 of the Government Code is amended to read:

31776.3. (a) Unless the implementing ordinance otherwise provides, the balance in the participant's program account shall be distributed to the participant in a single lump-sum payment at the time of retirement. If requested by the participant, the payment may be immediately deposited into a qualified tax-deferred account established by the participant.

(b) The implementing ordinance may provide one or more of the following optional forms of distribution for a participant's account:

(1) Substantially level installment payments over 240 months starting with the date that the member leaves DROP. The balance in the participant's



account during the installment payout period shall be credited with interest at the same rate, if any, as is being credited to program accounts for currently active members. A cost-of-living adjustment may not be made to the monthly amount being paid pursuant to this paragraph.

(2) An annuity in a form established by the board and subject to the applicable provisions of the Internal Revenue Code that shall be the actuarial equivalent of the balance in the participant's program account on the retirement date. The "actuarial equivalent" under this paragraph shall be determined on the same basis as is used for determining optional settlements at retirement for a member's monthly retirement allowance.

(c) Notwithstanding any other provision of this article, a participant, nonparticipant spouse, or beneficiary may not be permitted to elect a distribution under this article that does not satisfy the requirements of Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder.

(d) The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution to the participant, the lump-sum payment shall be made, at the participant's option, not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 72 years of age, or an age determined by the Internal Revenue Service, or the calendar year in which the participant terminates all employment for the employer.

(2) In the case of a distribution to the participant in the form of installment payments or an annuity, payment shall begin, at the participant's option, not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 72 years of age, or an age determined by the Internal Revenue Service, or the calendar year in which the participant terminates all employment subject to coverage by the plan.

(3) In the case of a benefit payable on account of the participant's death, distribution shall be paid at the option of the beneficiary, no later than December 31 of the calendar year in which the first anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions shall commence on or before the later of either of the following:

(A) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(B) December 31 of the calendar year in which the participant would have attained 72 years of age or an age determined by the Internal Revenue Service.

SEC. 55. Section 31781.1 of the Government Code is amended to read:

31781.1. (a) If a member of a retirement system established in a county subject to the provisions of Section 31676.1 would have been entitled to retirement in the event of a non-service-connected disability, but dies as the result of an injury or illness prior to retirement, the surviving spouse of the member shall have the right to elect, by written notice filed with the board,

to receive and be paid in lieu of the death benefit provided in Sections 31780 and 31781, an “optional death allowance.”

(b) The allowance shall consist of a monthly payment equal to 60 percent of the monthly retirement allowance to which the deceased member would have been entitled if the member had retired by reason of non-service-connected disability as of the date of the member’s death.

(c) If the surviving spouse elects to receive the “optional death allowance” the payments due for this allowance shall be retroactive to the date of the deceased member’s death, and shall continue throughout the life of the spouse.

(d) If the surviving spouse elects to receive the “optional death allowance,” and thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the “optional death allowance” shall thereafter be paid to those surviving children collectively until each child dies, marries, or reaches the age of 18 years. The right of any child to the allowance shall cease upon the child’s death or marriage, or upon reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to each of the other qualified children.

(e) If the deceased member leaves no surviving spouse but leaves an unmarried child or children under the age of 18 years, the legally appointed guardian of the child or children shall make the election provided in this section on behalf of the surviving child or children that, in the guardian’s judgment, is in the best interests of the surviving child or children. The election made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and each child of the deceased member are not dependent upon whether any of these persons have been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to each child of the member shall be paid to each child up to the 22nd birthday of the child if the child remains unmarried and is regularly enrolled as a full-time student in an accredited school as determined by the board.

(h) For purposes of this section, “child” means a natural or adopted child of the deceased member, or a stepchild living or domiciled with the deceased member at the time of the member’s death.

SEC. 56. Section 31781.2 of the Government Code is amended to read:

31781.2. In lieu of accepting in cash the death benefit payable under Section 31781 or 31781.01, the surviving spouse of a member who dies prior to reaching the minimum retirement age and who at the date of the member’s death has 10 or more years of service to the member’s credit, shall have the option to leave the amount of the death benefit on deposit in the retirement system until the earliest date when the deceased member could have retired had the member lived, and at that time receive the

retirement allowance provided for in Section 31765, 31765.1, or 31765.11, whichever is applicable.

If, at the death of the spouse, the spouse is survived by one or more unmarried children of the member, under the age of 18 years, the retirement allowance shall continue to the child or children, collectively, until every child dies, marries, or attains the age of 18 years. If the spouse dies, either before or after the death of the member, without either making the election or receiving any portion of the death benefit, and no part of the death benefit had been paid to any person, prior to the payment of any benefits, the legally appointed guardian of the children shall make the election herein provided for on behalf of the surviving children as, in guardian's judgment, may appear to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

SEC. 57. Section 31785 of the Government Code is amended to read:

31785. Upon the death of any safety member, after retirement for service or non-service-connected disability from a retirement system established in a county subject to the provisions of Section 31676.1 or 31695.1, 60 percent of the member's retirement allowance if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued throughout life to the member's surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if the surviving spouse dies before every child of the deceased safety member attains the age of 18 years, then the allowance which the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age, collectively, to continue until every child dies or attains that age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless the surviving spouse was married to the safety member at least one year prior to the date of the member's retirement.

Any qualified surviving spouse or children of a member of a pension system established pursuant to either Chapter 4 (commencing with Section 31900) or Chapter 5 (commencing with Section 32200), who shall have been retired on or before December 31, 1951, shall be paid a retirement allowance pursuant to the provisions of this section. In cases where the death of a member occurred prior to January 1, 1952, the payment of the retirement allowance to the qualified surviving spouse or children shall be made effective on January 1, 1952.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain

unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

The superseding rights pursuant to this section shall not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

SEC. 58. Section 31785.1 of the Government Code is amended to read:

31785.1. (a) Notwithstanding Section 31481 or 31785, upon the death of any safety member, after retirement for service or non-service-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of the safety member's retirement allowance if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued to the member's surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if the surviving spouse dies before every child of the deceased safety member attains the age of 18 years, then the allowance that the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age, collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless the surviving spouse was married to the safety member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

(c) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(d) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31785.

(e) The superseding rights pursuant to this section do not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(f) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

SEC. 59. Section 31786 of the Government Code is amended to read:

31786. Upon the death of any member after retirement for service-connected disability, the member's retirement allowance as it was at the member's death if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued throughout life to the member's surviving spouse. If there is no surviving spouse entitled to an allowance hereunder or if the surviving spouse dies before every child of such deceased member attains the age of

18 years, then the allowance which the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under said age, collectively, to continue until every such child dies or attains said age; provided, that no child shall receive any allowance after marrying or attaining the age of 18 years. No allowance, however, shall be paid under this section to a surviving spouse unless the surviving spouse was married to the member prior to the date of the member's retirement.

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

SEC. 60. Section 31786.1 of the Government Code is amended to read:

31786.1. (a) Notwithstanding Section 31481 or 31786, upon the death of any member after retirement for service-connected disability, the member's retirement allowance as it was at the member's death if not modified in accordance with one of the optional settlements specified in Article 11 (commencing with Section 31760), shall be continued to the member's surviving spouse for life. If there is no surviving spouse entitled to an allowance under this section or if the surviving spouse dies before every child of the deceased member attains the age of 18 years, then the allowance that the surviving spouse would have received had the surviving spouse lived, shall be paid to the surviving spouse's child or children under that age, collectively, to continue until each child dies or attains that age. However, no child may receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance may be paid under this section to a surviving spouse unless the surviving spouse was married to the member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death.

(c) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

(d) No allowance may be paid pursuant to this section to any person who is entitled to an allowance pursuant to Section 31786.

(e) The superseding rights pursuant to this section do not affect benefits payable to a named beneficiary as provided under Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2, 31789.3, 31789.5, or 31790.

(f) This section is not applicable in any county until the board of retirement, by resolution adopted by a majority vote, makes this section applicable in the county. The board's resolution may designate a date, which may be prior or subsequent to the date of the resolution, as of which the resolution and this section shall be operative in the county.

SEC. 61. Section 31787 of the Government Code is amended to read:

31787. (a) If a member would have been entitled to retirement in the event of a service-connected disability, but dies prior to retirement as the result of injury or disease arising out of and in the course of the member's employment, the surviving spouse of the member shall have the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided for in Sections 31780 and 31781, an optional death allowance.

(b) The optional death allowance shall consist of a monthly payment equal to the monthly retirement allowance to which the deceased member would have been entitled if the member had retired by reason of a service-connected disability as of the date of the member's death.

(c) If the surviving spouse elects to receive the optional death allowance, the payments due for this allowance shall be retroactive to the date of the deceased member's death, and shall continue throughout the life of the spouse.

(d) If the surviving spouse elects to receive the optional death allowance, and thereafter dies leaving an unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the optional death allowance shall thereafter be paid to those surviving children collectively until each child dies, marries, or reaches the age of 18 years. The right of any child to the allowance shall cease upon the child's death or marriage, or upon reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to each of the other qualified children.

(e) If the deceased member leaves no surviving spouse but leaves an unmarried child or children under the age of 18 years, the legally appointed guardian of the child or children shall make the election provided in this section on behalf of the surviving child or children that, in the guardian's judgment, is in the best interests of the surviving child or children. The election made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and each child of the deceased member are not dependent upon whether any of those persons have been nominated by the deceased member as the beneficiary of any death benefits and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provision of this section, the benefits otherwise payable to each child of the member shall be paid to each child up to the 22nd birthday of the child if the child remains unmarried and is regularly enrolled as a full-time student in an accredited school as determined by the board.

(h) For purposes of this section, "child" means a natural or adopted child of the deceased member, or a stepchild living or domiciled with the deceased member at the time of the member's death.

SEC. 62. Section 31787.5 of the Government Code is amended to read:

31787.5. (a) A surviving spouse of a member who is killed in the performance of duty or who dies as the result of an accident or an injury caused by external violence or physical force, incurred in the performance

of the member's duty, now or hereafter entitled to receive a death allowance under Section 31787, shall be paid an additional amount for each of the member's children during the lifetime of the child, or until the child marries or reaches the age of 18 years, as follows, subject to the limitation in subdivision (b):

- (1) For one child, 25 percent of the allowance provided in Section 31787.
- (2) For two children, 40 percent of the allowance provided in Section 31787.
- (3) For three or more children, 50 percent of the allowance provided in Section 31787.

(b) If a benefit payable under this section, when added to a benefit payable under Section 31787, exceeds the maximum benefit payable by a tax-qualified pension plan under the Internal Revenue Code (26 U.S.C.A. Sec. 401 et. seq.), the benefit payable under this section shall be reduced to the amount required to meet that benefit limit.

(c) If the surviving spouse does not have legal custody of the member's children, the allowance provided by this section shall be payable to the person to whom custody of the children has been awarded by a court of competent jurisdiction for each child during the lifetime of the child, or until the child marries or reaches the age of 18 years.

(d) The allowance provided by this section shall be payable to the surviving spouses of members whose duties consist of active law enforcement or active fire suppression or any other class or group of members as the retirement board shall fix. The allowance provided by this section is not payable to the surviving spouses of members described in Section 31469.2.

(e) Any child whose eligibility for an allowance pursuant to this section commenced on or after October 1, 1965, shall lose that eligibility effective on the date of the child's adoption.

(f) This section shall become operative in any county, which has adopted the provisions of this chapter but which has not previously adopted the provisions of this section on October 1, 1965. Each surviving spouse of a member or other person having legal custody of a member's child or children who is paid an additional amount for each of the member's children because of the amendments to this section enacted at the 1965 or 1967 Regular Session shall receive those payments as they accrue from and after October 1 of the year during which this section was amended to provide for the payment to the member's child or children of that allowance, but the surviving spouse or other person shall not be given a claim for any increase in those benefits for a time prior to that date.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children up to the 22nd birthdays of the children if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

SEC. 63. Section 31855.3 of the Government Code is amended to read:

31855.3. As used in this article “child” means a member’s child who, when the member dies, is both dependent on the member and unmarried, as well as any of the following:

- (a) Under 18 years of age.
- (b) Any age, totally disabled, and became totally disabled before reaching 18 years of age.
- (c) Age 18 years or over, but under 22 years of age, and enrolled as a full-time student in an accredited school, as determined by the board.

SEC. 64. Section 75088.3 of the Government Code is amended to read:

75088.3. The required beginning date of distributions that reflect the entire interest of the judge shall be as follows:

(a) In the case of a lump-sum distribution to the judge, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the judge attains the age of 72 years or the calendar year in which the judge terminates employment.

(b) In the case of a program payment payable on account of the judge’s death, the distribution shall be made no later than December 31 of the calendar year in which the fifth anniversary of the judge’s date of death occurs unless the beneficiary is the judge’s spouse in which case distributions shall commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the judge dies.

(2) December 31 of the calendar year in which the judge would have attained the age of 72 years.