

AMENDED IN SENATE SEPTEMBER 6, 2001

AMENDED IN SENATE JULY 2, 2001

AMENDED IN ASSEMBLY MAY 14, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1683**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Havice (Chair), Canciamilla (Vice Chair), Briggs, Chan, Firebaugh, Pescetti, and Strom-Martin)**

February 28, 2001

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An act to amend Sections 3562.2, 20057.1, 20070, 20356, 20433, 20434, 20434.5, 20481, 20515, 20580, 20588, 20686, 21024, 21027, 21054, 21259, 21298, 21317, 21318, 21319, 21322, 21325, 21326, 21327, 21328, 21547.7, 21751, 21757, 21758, 21761, 21764, 22819, 22821.1, 22857, and 31657 of, to add Sections 20890.1, 21461.5, and 22013.98 to, and to repeal Sections 20687.1, 21001, and 21002 of, the Government Code, relating to public employee benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 1683, as amended, Committee on Public Employees, Retirement and Social Security. Public employee benefits.

(1) The Public Employees' Retirement Law provides that certain benefits provisions shall be applicable to contracting agencies only if the agency's contract with the system, as originally executed or as amended, makes the provision applicable.

This bill would provide that some of those provisions shall be applicable to a contracting agency only if its contract so provided on or before December 31, 2001.

(2) *Under existing law, when a local agency contracts with the Public Employees' Retirement System, members of the local agency's retirement system included in the contract become members of the Public Employees' Retirement System and payments being made to retirees, survivors, and beneficiaries of the local system on the effective date of the contract are continued and paid by the Public Employees' Retirement System at the existing rates, unless the contract or a subsequent amendment thereto otherwise provides, as specified.*

*This bill would revise that provision to provide that payments being made to retirees, survivors, and beneficiaries of the local system on the effective date of the contract be continued and paid, as specified, unless the contract or a subsequent amendment thereto otherwise provides as to persons retired under the local system, as specified.*

(3) Existing law authorizes members of the Public Employees' Retirement System employed by a contracting agency to withdraw their contributions to the system upon the termination of the agency's contract with the system.

This bill would make that authorization applicable to those members only if they are not employed in a position subject to coverage by the system at the time of the election to withdraw.

(3)

(4) Existing law establishes the local sheriff and the local firefighter membership classifications within the Public Employees' Retirement System. Members subject to the local ~~sherif~~ *sheriff* classification were formerly classified as county peace officers.

This bill would specify conditions for the conversion of county peace officer service to local sheriff service and would make technical changes with respect to the local firefighter classification.

(4)

(5) Under the Public Employees' Retirement Law, contracting agencies may authorize their members to elect to receive service credit for time during which the member served in the military, provided, among other things, that service was continuous, and time during which the member was on war relocation leave.

This bill would eliminate the requirement that the military service be continuous and would repeal the provision relating to war relocation leave.

(5)

(6) The Public Employees' Retirement Law provides that the monthly allowance paid to, among others, a local member who retired



prior to January 1, 2000, may be increased, at the election of the contracting agency, according to a specified schedule.

This bill would provide that those increases shall be made notwithstanding the purchase power protection increase that is also provided under existing law for those retirees.

~~(6)~~

(7) Existing law authorizes a member of the Public Employees' Retirement System to elect, upon service retirement, to have the actuarial equivalent of his or her unmodified service retirement allowance paid as a temporary annuity and life income, as specified.

This bill would establish an alternative temporary annuity election that would be available to persons who first became members of the system on or after January 1, 2002.

~~(7)~~

(8) Existing law establishes a replacement benefits program for members of the Public Employees' Retirement System.

This bill would designate that program as a benefits replacement plan and would clarify that the plan is applicable to school employers and members of the system.

~~(8)~~

(9) The Public Employees' Retirement Law and Public Employees' Medical and Hospital Care Act prescribe retirement, death, and health benefits for specified public employees and their survivors.

This bill would make technical and clarifying changes to provisions of that law and act.

~~(9)~~

(10) Existing law prescribes procedures to transfer membership from the Public Employees' Retirement System to a county retirement system subject to the County Retirement Law of 1937 for certain public safety members who were employed by a contracting agency and who are subsequently employed by a county, fire authority, or district within any of 2 or 3 specified counties as a result of the transfer of firefighting or law enforcement functions, as specified.

This bill would clarify that those procedures are also applicable to those public safety members who were employed by the state and who are subsequently employed by a county, fire authority, or district within all 3 counties as a result of such a transfer. The bill would also make related technical changes.

~~(10)~~



(11) Under existing law, the Board of Administration of the Public Employee’s Retirement System administers an agreement with the federal Department of Health and Human Services for the social security coverage of employees of the state and various public agencies that contract for coverage. The existing law excludes from that coverage agreement peace officers and firefighters , as defined.

This bill would expand the definition of “fireman” for those purposes to include certain employees of the City of Long Beach who perform life saving and peace keeping duties, as specified.

(12) Existing law, the Public Employees’ Medical and Hospital Care Act, provides that an annuitant, as defined, who meets specified criteria and who was enrolled in a specified health benefits plan at the time of becoming an annuitant may continue his or her enrollment, as specified. The act also authorizes contracting agencies to allow eligible family members of a deceased employee of the contracting agency to enroll in a specified health benefits plan following the employee’s death, as specified.

This bill would specify that this authorization is applicable to eligible family members who are not enrolled on the employee’s date of death.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 3562.2 of the Government Code is  
2 amended to read:  
3 3562.2. Notwithstanding subdivision (r) of Section 3562, for  
4 purposes of the California State University only, “scope of  
5 representation” also means any retirement benefits available to a  
6 state member under Part 3 (commencing with Section 20000) of  
7 Title 2.  
8 SEC. 2. Section 20057.1 of the Government Code is amended  
9 to read:  
10 20057.1. To qualify as a “public agency” within the meaning  
11 of this part, any organization that qualifies under amendments to  
12 the definitions of “public agency” effective on or after January 1,  
13 2002, shall also obtain a written advisory opinion from the United  
14 States Department of Labor stating that the organization is an  
15 agency or instrumentality of the state or a political subdivision



1 thereof within the meaning of Sections 1001 et seq. of Title 29 of  
2 the United States Code.

3 SEC. 3. Section 20070 of the Government Code is amended  
4 to read:

5 20070. “1959 survivor allowance” means the allowance  
6 provided for in Sections 21571, 21572, 21573, 21574, 21574.5,  
7 and 21574.7.

8 SEC. 4. Section 20356 of the Government Code is amended  
9 to read:

10 20356. Whenever in this part the rights of a local member,  
11 because of membership in another retirement system, are  
12 conditioned upon employment within six months of termination  
13 of membership in this system or another retirement system, the  
14 period shall be one year rather than six months if the local member  
15 was an elective officer and becomes a member of another  
16 retirement system upon commencement of service in another  
17 elective office on and after January 1, 1977.

18 This section shall not apply unless the other employer in a  
19 reciprocal system elected a similar provision, nor shall it apply to  
20 any contracting agency nor to the employees of any contracting  
21 agency unless that agency elected to be subject to the provisions  
22 of this section in its contract with the board on or before December  
23 31, 2001.

24 SEC. 5. Section 20433 of the Government Code is amended  
25 to read:

26 20433. “Local firefighter” means any officer or employee of  
27 a fire department of a contracting agency, except one whose  
28 principal duties are those of a telephone operator, clerk,  
29 stenographer, machinist, mechanic, or otherwise and whose  
30 functions do not clearly fall within the scope of active firefighting,  
31 or active firefighting and prevention service, active firefighting  
32 and fire training, active firefighting and hazardous materials,  
33 active firefighting and fire or arson investigation, or active  
34 firefighting and emergency medical services, even though that  
35 employee is subject to occasional call, or is occasionally called  
36 upon, to perform duties within the scope of active firefighting, or  
37 active firefighting and prevention service, active firefighting and  
38 fire training, active firefighting and hazardous materials, active  
39 firefighting and fire or arson investigation, or active firefighting  
40 and emergency medical services, but not excepting persons



1 employed and qualifying as firefighters or equal or higher rank,  
2 irrespective of the duties to which they are assigned.

3 SEC. 6. Section 20434 of the Government Code is amended  
4 to read:

5 20434. “Local firefighter” also means any officer or  
6 employee of a fire department of a contracting agency, except one  
7 whose principal duties are those of a telephone operator, clerk,  
8 stenographer, machinist, mechanic, or otherwise and whose  
9 functions do not clearly fall within the scope of active firefighting,  
10 fire prevention, fire training, hazardous materials, emergency  
11 medical services, or fire or arson investigation service, even  
12 though that employee is subject to occasional call, or is  
13 occasionally called upon, to perform duties within the scope of  
14 active firefighting, fire prevention, fire training, hazardous  
15 materials, emergency medical services, or fire or arson  
16 investigation service, but not excepting persons employed and  
17 qualifying as firefighters or equal or higher rank, irrespective of  
18 the duties to which they are assigned.

19 This section shall not apply to the employees of any contracting  
20 agency nor to any contracting agency until the agency elects to be  
21 subject to this section by amendment to its contract with the board,  
22 made pursuant to Section 20474 or by express provision in its  
23 contract with the board.

24 SEC. 7. Section 20434.5 of the Government Code is amended  
25 to read:

26 20434.5. “Local firefighter” also means any officer or  
27 employee of a fire department of a contracting agency, except one  
28 whose principal duties are those of a telephone operator, clerk,  
29 stenographer, machinist, mechanic, or otherwise, and whose  
30 functions do not clearly fall within the scope of hazardous  
31 materials services, even though that employee is subject to  
32 occasional call, or is occasionally called upon, to perform duties  
33 within the scope of hazardous materials services, but not excepting  
34 persons employed and qualifying as firefighters or equal or higher  
35 rank, irrespective of the duties to which they are assigned.

36 This section shall not apply to the employees of any contracting  
37 agency nor to any contracting agency unless and until the  
38 contracting agency elects to be subject to this section by  
39 amendment to its contract with the board, made pursuant to



1 Section 20474 or by express provision in its contract with the  
2 board.

3 SEC. 8. *Section 20481 of the Government Code is amended*  
4 *to read:*

5 20481. All members of a local system included by contract in  
6 this system thereupon become subject to this part and cease to be  
7 members of the local system. Payments being made to persons  
8 who have retired or their survivors or beneficiaries under the local  
9 system on the effective date of the contract, *or any subsequent*  
10 *amendment thereto*, shall be continued and paid by this system at  
11 the rates existing on that date *under the local system* unless the  
12 agency elects in its contract or by amendment thereto to provide  
13 a recalculation of retirement allowances for persons retired under  
14 the local system on the basis of the provisions of the contract. The  
15 liability for those payments shall be included in the computation  
16 of the prior service liability of the contracting agency. All  
17 members of the local system who are members under provisions  
18 continuing membership after termination of service shall be  
19 deemed members of this system under Section 20731 with credit  
20 in this system for all of the service with regard to which  
21 membership was continued under the local system.

22 SEC. 9. Section 20515 of the Government Code is amended  
23 to read:

24 20515. (a) A contracting agency that has included this  
25 section in its contract with the board, by express provision or by  
26 amendment, on or before December 31, 2001, may provide that,  
27 notwithstanding any other provision of this part, service that was  
28 in fact also covered under the federal system shall not be deemed  
29 as service that was also covered under the federal system, for all  
30 purposes of this part, except for the benefits provided by Article  
31 3 (commencing with Section 21570) of Chapter 14. The  
32 amendment shall only be applicable to persons who are employed  
33 on and after the effective date of the amendment.

34 (b) The amendment made to this section by Chapter 636 of the  
35 Statutes of 1994 shall apply only to a contracting agency that  
36 includes this section in its contract on and after January 1, 1995,  
37 and on or before December 31, 2001.

38 ~~SEC. 9.~~

39 SEC. 10. Section 20580 of the Government Code is amended  
40 to read:



1 20580. Upon the termination of a contract, all memberships  
2 in this system existing because of that contract continue in  
3 existence to the extent that there are accumulated contributions to  
4 the credit of each local member, but any member may elect to  
5 withdraw his or her accumulated contributions if the member is not  
6 employed in a position subject to coverage by the system at the  
7 time of election. The status of any member who does not withdraw  
8 his or her accumulated contributions shall be the same as if the  
9 public agency had continued as a contracting agency. The  
10 membership of any member who is eligible and who elects to  
11 withdraw his or her accumulated contributions shall be terminated  
12 forthwith, and he or she shall not be entitled to any further benefit  
13 based upon service credited as an employee of the contracting  
14 agency, nor shall he or she have the right to redeposit those  
15 withdrawn contributions upon again becoming a member of this  
16 system. The portion of the contributions of the contracting agency  
17 held under Section 20576 to the credit of each member shall be  
18 determined by the board, and may be adjusted from time to time  
19 prior to termination of membership. A member whose  
20 membership continues under this section is subject to the same age  
21 and incapacity requirements as apply to other members for service  
22 or for disability retirement, but he or she is not subject to a  
23 minimum service requirement. Except as provided in Section  
24 20578, he or she shall receive the retirement benefits as his or her  
25 accumulated contributions, together with the portion of the excess  
26 of the contributions of the contracting agency as are credited to  
27 him or her, shall provide, as determined by the board, but the  
28 provisions of this part relative to minimum retirement allowances  
29 shall not apply to him or her, nor shall those benefits exceed the  
30 benefits provided by the contract prior to its termination. Upon the  
31 death of a member, the basic death benefit shall be his or her  
32 accumulated contributions.

33 ~~SEC. 10.~~

34 *SEC. 11.* Section 20588 of the Government Code is amended  
35 to read:

36 20588. Notwithstanding any other provision of this article,  
37 the board may, pursuant to this section and Section 31657, enter  
38 into an agreement with the board of retirement of a county  
39 maintaining a county retirement system, for termination of  
40 participation of a public agency whose contract has been in effect



1 for at least five years in this system or the state with respect to  
2 certain safety members who have ceased to be employed by the  
3 public agency or the state and have been employed by a county, fire  
4 authority, or district as a result of a transfer of firefighting or law  
5 enforcement functions from the public agency or the state to the  
6 county, fire authority, or district and inclusion of the former public  
7 agency employees in that county retirement system. The  
8 agreement shall contain provisions the board finds necessary to  
9 protect the interests of this system for determination of the amount,  
10 time, manner of transfer of cash or the securities, or both, to be  
11 transferred to the county system as representing the actuarial value  
12 of the interests in the retirement fund of the public agency or the  
13 state and the transferred employees by reason of accumulated  
14 contributions credited to that public agency or the state and the  
15 employees transferred. The agreement shall apply only to  
16 employees who are employed by the county or district on the  
17 effective date of the agreement. All liability of this system with  
18 respect to the members transferred under that agreement shall  
19 cease and shall become the liability of the county retirement  
20 system as of the date of transfer specified in the agreement.  
21 Liability of the county retirement system shall be for payment of  
22 benefits to transferred employees in accordance with Chapter 3  
23 (commencing with Section 31450) of Part 3 of Division 4 of Title  
24 3. Any member transferred who becomes a member of a county  
25 retirement system upon that transfer date shall be subject to  
26 provisions of this part and of Chapter 3 (commencing with Section  
27 31450) of Part 3 of Division 4 of Title 3 extending rights to a  
28 member or subjecting him or her to limitations because of  
29 membership in another retirement system to the same extent that  
30 he or she would have been had he or she been a member of the  
31 county retirement system during his or her membership in this  
32 system.

33 This section shall apply only in Kern, Los Angeles, and Orange  
34 Counties.

35 ~~SEC. 11.~~

36 *SEC. 12.* Section 20686 of the Government Code is amended  
37 to read:

38 20686. For each state safety member defined in Section  
39 20401 and whose current and prior service pensions shall be  
40 computed pursuant to Section 21373, the normal rate of



1 contribution shall be 8 percent and shall be made only on the  
2 compensation in excess of two hundred thirty-eight dollars (\$238)  
3 per month. The Legislature reserves the right to increase the rate  
4 of contribution as it may find appropriate from time to time. No  
5 adjustment shall be included in rates adopted under this section as  
6 the result of amendments hereto, changing the time at which  
7 members may retire or the benefits members shall receive, because  
8 of time during which members have contributed at different rates  
9 prior to that adoption.

10 ~~SEC. 12.~~

11 *SEC. 13.* Section 20687.1 of the Government Code is  
12 repealed.

13 ~~SEC. 13.~~

14 *SEC. 14.* Section 20890.1 is added to the Government Code,  
15 to read:

16 20890.1. Past county peace officer service shall be converted  
17 to local sheriff service if all of the following apply to the past  
18 service:

19 (a) It was rendered in a position that has subsequently been  
20 reclassified as a local sheriff position according to the provisions  
21 of Section 20432.

22 (b) It was rendered by a current employee of the same agency  
23 for which the county peace officer service was performed.

24 (c) It is credited to an employee who has other local sheriff  
25 service credit for service performed with the agency.

26 ~~SEC. 14.~~

27 *SEC. 15.* Section 21001 of the Government Code is repealed.

28 ~~SEC. 15.~~

29 *SEC. 16.* Section 21002 of the Government Code is repealed.

30 ~~SEC. 16.~~

31 *SEC. 17.* Section 21024 of the Government Code is amended  
32 to read:

33 21024. (a) "Public service" with respect to a local member,  
34 other than a school member, also means active service with the  
35 Armed Forces or the Merchant Marine of the United States,  
36 including time during any period of rehabilitation afforded by the  
37 United States government other than a period of rehabilitation for  
38 purely educational purposes, and for six months thereafter prior to  
39 the member's first employment by the employer under this section  
40 in which he or she was a member.



1 (b) Any member electing to receive credit for that public  
2 service shall make the contributions as specified in Sections 21050  
3 and 21052. However, any eligible member who requests costing  
4 of service credit between January 1, 2001, and December 31, 2003,  
5 may, instead of making those contributions, make the payment  
6 calculated under this article as it read on December 31, 2000,  
7 which payment shall be made in the manner described in Section  
8 21050.

9 (c) The public service under this section shall not include  
10 military service (1) in any period for which credit is otherwise  
11 given under this article or Article 4 (commencing with Section  
12 20990) or (2) to the extent that total credit under this section would  
13 exceed four years.

14 (d) Notwithstanding Section 21034, a member may select  
15 which of two or more periods of service entitles him or her to  
16 receive public service under this section.

17 (e) This section shall apply to a member only if he or she elects  
18 to receive credit while he or she is in state service in the  
19 employment of one employer on or after the date of the employer's  
20 election to be subject to this section.

21 (f) This section shall not apply to any contracting agency nor  
22 to the employees of any contracting agency until the agency elects  
23 to be subject to this section by amendment to its contract made in  
24 the manner prescribed for approval of contracts or in the case of  
25 contracts made after this section takes effect, by express provision  
26 in the contract making the contracting agency subject to this  
27 section. The amendments to this section made during the second  
28 year of the 1999–2000 Regular Session shall apply to contracts  
29 subject to this section on January 1, 2001.

30 ~~SEC. 17.~~

31 *SEC. 18.* Section 21027 of the Government Code is amended  
32 to read:

33 21027. (a) "Public service" with respect to a local member  
34 who retired pursuant to this part before the effective date of the  
35 election of his or her employer to be subject to Section 21024 also  
36 means active service with the Armed Forces or the Merchant  
37 Marine of the United States, including time during any period of  
38 rehabilitation afforded by the United States government other than  
39 a period of rehabilitation for purely educational purposes, and for



1 six months thereafter prior to the person's first employment by the  
2 employer under this section in which he or she was a member.

3 (b) Any retired person electing to receive credit for that public  
4 service shall make the contributions as specified in Sections 21050  
5 and 21052. However, any eligible member who requests costing  
6 of service credit between January 1, 2001, and December 31, 2003,  
7 may, instead of making those contributions, make the payment  
8 calculated under this article as it read on December 31, 2000,  
9 which payment shall be made in the manner described in Section  
10 21050.

11 (c) The public service shall not include military service (1) in  
12 any period for which credit is otherwise given under this article or  
13 Article 4 (commencing with Section 20990) or (2) to the extent  
14 that total credit under this section would exceed four years.

15 (d) Notwithstanding Section 21034, a retired person may select  
16 which of two or more periods of service entitles him or her to  
17 receive public service under this section.

18 (e) This section shall apply to a retired person only if he or she  
19 retired immediately following service as a local member, pursuant  
20 to this part, and before the effective date of the election by his or  
21 her employer to be subject to Section 21024.

22 (f) The retirement allowance of a retired person who elects to  
23 receive service credit pursuant to this section shall be increased  
24 only with respect to the allowance payable on and after the  
25 effective date of the election.

26 (g) This section shall not apply to any contracting agency nor  
27 to the employees of any contracting agency until the agency has  
28 elected to be subject to Section 21024 and elects to be subject to  
29 this section by amendment to its contract made in the manner  
30 prescribed for approval of contracts or, in the case of contracts  
31 made after January 1, 1988, by express provision in the contract  
32 making the contracting agency subject to both Section 21024 and  
33 this section. The amendments to this section made during the  
34 second year of the 1999–2000 Regular Session shall apply to  
35 contracts subject to this section on January 1, 2001.

36 ~~SEC. 18.~~

37 *SEC. 19.* Section 21054 of the Government Code is amended  
38 to read:

39 21054. Notwithstanding any other provision of law, a  
40 member or retired member who elected to purchase military



1 service credit under Section 21024 or 21027 on or after January 1,  
2 1999, and prior to January 1, 2001, may, at any time prior to  
3 making the final payment for the service credit, elect to have the  
4 cost of that service credit recalculated pursuant to Section 21052.  
5 If that cost as recalculated under Section 21052 is less than the cost  
6 as originally calculated, the member or retired member shall pay  
7 the lesser amount, with credit for the payments previously made.  
8 However, no refund shall be payable to a member or retired  
9 member as a result of the recalculation of cost pursuant to this  
10 section.

11 ~~SEC. 19.~~

12 *SEC. 20.* Section 21259 of the Government Code is amended  
13 to read:

14 21259. Subject to compliance with this part, after a member  
15 has qualified as to service and disability for retirement for  
16 disability, or as to age and service for retirement for service,  
17 nothing shall deprive him or her of the right to a retirement  
18 allowance as determined under this part.

19 ~~SEC. 20.~~

20 *SEC. 21.* Section 21298 of the Government Code is amended  
21 to read:

22 21298. (a) A nonmember entitled to receive a retirement  
23 allowance shall receive a retirement allowance based on the  
24 service retirement formula applicable to the service credited to the  
25 nonmember.

26 (b) The retirement allowance shall consist of a pension and an  
27 annuity, the latter of which shall be derived from the nonmember's  
28 accumulated contributions. The nonmember's retirement  
29 allowance, based upon the service credited by the employer and  
30 the nonmember's effective date of retirement, shall be subject to  
31 all cost-of-living increases, ad hoc increases, and increases  
32 provided by Section 21337 or ~~Section~~ 21337.1.

33 (c) If, prior to the nonmember's retirement, there is any  
34 increase in the service retirement formula that applies to service  
35 credited to the nonmember, that increase shall apply to the  
36 applicable service credited to the nonmember, provided that the  
37 same increase also applies to the applicable service credited to the  
38 member from whose account the nonmember's service was  
39 derived.

40 ~~SEC. 21.~~



1     *SEC. 22.* Section 21317 of the Government Code is amended  
2 to read:

3     21317. (a) In addition to the increase of allowance authorized  
4 by and granted pursuant to Section 21313 and notwithstanding the  
5 limitation in subdivision (b) of Section 21329, any monthly  
6 allowance computed under or limited by any section other than  
7 Section 21362, as amended by Chapter 96 of the Statutes of 1971,  
8 and paid with respect to a local safety member whose retirement  
9 for service or nonindustrial death before retirement occurred prior  
10 to the date the contracting agency elected to be subject to Section  
11 21362 as so amended, shall be increased by 15 percent. The  
12 percentage shall be applied to the allowance payable on the date  
13 this section becomes applicable to the contracting agency and the  
14 allowance as so increased shall be paid for time on and after that  
15 date and until the first day of April immediately following the date  
16 of application. The base allowance shall be increased by the same  
17 percentage for annual adjustments beginning with the adjustment  
18 effective for time commencing with that annual adjustment.

19     (b) For the purposes of this section, all contributions, liabilities,  
20 actuarial interest rates, and other valuation factors shall be  
21 determined on the basis of actuarial assumptions and methods that,  
22 in the aggregate, are reasonable and that, in combination, offer the  
23 actuary's best estimate of anticipated experience under the system.

24     (c) The additional employer contributions required under this  
25 section shall be computed as a level percentage of member  
26 compensation. The additional contribution rate required at the  
27 time this section is added to a contract shall not be less than the sum  
28 of (1) the actuarial normal cost and (2) the additional contribution  
29 required to amortize the increase in accrued liability attributable  
30 to benefits elected under this section over a period of not more than  
31 30 years from the date this section becomes effective in the  
32 contracting agency's contract.

33     (d) This section shall not apply to any contracting agency nor  
34 to the employees of any contracting agency unless that agency  
35 elected to be subject to the provisions of this section in its contract  
36 with the board on or before December 31, 2001.

37     ~~*SEC. 22.*~~

38     *SEC. 23.* Section 21318 of the Government Code is amended  
39 to read:



1 21318. (a) In addition to the increase of allowance authorized  
2 by and granted pursuant to Section 21313 and notwithstanding the  
3 limitation in subdivision (b) of Section 21329, any monthly  
4 allowance computed under or limited by any section other than  
5 Section 21362, as amended by Chapter 96 of the Statutes of 1971,  
6 and paid with respect to a local safety member whose retirement  
7 for service or nonindustrial death before retirement occurred, or  
8 who was granted an industrial or nonindustrial disability  
9 retirement, prior to the date the contracting agency elected to be  
10 subject to Section 21362 as so amended, shall be increased by 15  
11 percent. The percentage shall be applied to the allowance payable  
12 on the date this section becomes applicable to the contracting  
13 agency and the allowance as so increased shall be paid for time on  
14 and after that date and until the first day of April immediately  
15 following the date of application. The base allowance shall be  
16 increased by the same percentage for annual adjustments  
17 beginning with the adjustment effective for time commencing  
18 with that annual adjustment.

19 (b) For the purposes of this section, all contributions, liabilities,  
20 actuarial interest rates, and other valuation factors shall be  
21 determined on the basis of actuarial assumptions and methods that,  
22 in the aggregate, are reasonable and that, in combination, offer the  
23 actuary's best estimate of anticipated experience under this  
24 system.

25 (c) The additional employer contributions required under this  
26 section shall be computed as a level percentage of member  
27 compensation. The additional contribution rate required at the  
28 time this section is added to a contract shall not be less than the sum  
29 of (1) the actuarial normal cost and (2) the additional contribution  
30 required to amortize the increase in accrued liability attributable  
31 to benefits elected under this section over a period of not more than  
32 30 years from the date this section becomes effective in the  
33 contracting agency's contract.

34 (d) This section shall not apply to any contracting agency nor  
35 to the employees of any contracting agency unless that agency  
36 elected to be subject to the provisions of this section in its contract  
37 with the board on or before December 31, 2001.

38 ~~SEC. 23.~~

39 SEC. 24. Section 21319 of the Government Code is amended  
40 to read:



1 21319. (a) In addition to the increase of allowance authorized  
2 by and granted pursuant to Section 21313 and notwithstanding the  
3 limitation in subdivision (b) of Section 21329, any monthly  
4 allowance computed under or limited by a retirement formula  
5 applicable to local miscellaneous members who retired prior to  
6 July 1, 1971, or to local miscellaneous members who so retired and  
7 then were reinstated from retirement and retired again after July  
8 1, 1971, and whose allowance is based upon such a formula and  
9 paid with respect to a local miscellaneous member whose  
10 retirement or whose initial retirement or death before retirement  
11 occurred prior to July 1, 1971, shall be increased by 15 percent.  
12 The percentage shall be applied to the allowance payable on the  
13 date this section becomes applicable to the contracting agency and  
14 the allowance as so increased shall be paid for time on and after that  
15 date and until the first day of April immediately following the date  
16 of the application. The base allowance shall be increased by the  
17 same percentage for annual adjustments beginning with the  
18 adjustment effective for time commencing with that annual  
19 adjustment.

20 (b) This section shall apply only to the portion of the allowance  
21 that is based on service in employment with the employer electing  
22 to be subject to this section.

23 (c) This section shall not apply to any contracting agency nor  
24 to the employees of any contracting agency unless that agency  
25 elected to be subject to the provisions of this section in its contract  
26 with the board on or before December 31, 2001.

27 ~~SEC. 24.~~

28 *SEC. 25.* Section 21322 of the Government Code is amended  
29 to read:

30 21322. Section 21320 shall apply to any contracting agency  
31 that has included the provisions of that section in its contract with  
32 the board on or before December 31, 2001.

33 ~~SEC. 25.~~

34 *SEC. 26.* Section 21325 of the Government Code is amended  
35 to read:

36 21325. (a) In addition to the increase in allowance authorized  
37 by and granted pursuant to the provisions of Section 21313, and  
38 notwithstanding the limitation on those increases imposed by this  
39 article, the monthly allowance paid with respect to a local member,  
40 other than a school member, who retired or died prior to January



1 1, 1974, shall be increased by the percentage set forth opposite the  
2 period in the following table during which retirement became  
3 effective or death occurred:

4	5 Period during which retirement	
6	or death occurred:	Percentage:
7	On or before December 31, 1965 .....	15%
8	12 months ending December 31, 1966 .....	14%
9	12 months ending December 31, 1967 .....	13%
10	12 months ending December 31, 1968 .....	12%
11	12 months ending December 31, 1969 .....	9%
12	12 months ending December 31, 1970 .....	6%
13	12 months ending December 31, 1971 .....	5%
14	12 months ending December 31, 1972 .....	4%
15	12 months ending December 31, 1973 .....	3%

16  
17 (b) The percentage shall be applied to the allowance payable on  
18 the date this section becomes applicable to the contracting agency,  
19 and the allowance as so increased shall be paid for time on and after  
20 that date and until the first day of April immediately following the  
21 date of application. The base allowance shall be the allowance as  
22 increased under this section. The base year for annual adjustments  
23 of allowances increased by this section shall be the calendar year  
24 preceding the year of increase if the increase date is after April 1st  
25 of any calendar year, and the second calendar year preceding the  
26 year of increase if the increase date is on or before April 1st of any  
27 calendar year.

28 (c) This section shall not apply to any contracting agency  
29 unless that agency elected to be subject to the provisions of this  
30 section in its contract with the board on or before December 31,  
31 2001.

32 ~~SEC. 26.~~

33 *SEC. 27.* Section 21326 of the Government Code is amended  
34 to read:

35 21326. (a) In addition to the increase in allowance authorized  
36 by and granted pursuant to the provisions of Section 21313, and  
37 notwithstanding the limitation on those increases imposed by this  
38 article, the monthly allowance paid with respect to a local member,  
39 other than a school member, who retired or died prior to July 1,  
40 1974, shall be increased by the percentage set forth opposite the



1 period in the following table during which retirement became  
2 effective or death occurred:

3	4 Period during which retirement	5 or death occurred:	6 Percentage:
6	On or before December 31, 1965	.....	7%
7	12 months ending December 31, 1966	.....	6%
8	12 months ending December 31, 1967	.....	5%
9	12 months ending December 31, 1968	.....	4%
10	12 months ending December 31, 1969	.....	3%
11	18 months ending June 30, 1971	.....	2%
12	36 months ending June 30, 1974	.....	1%

13  
14 (b) The percentage shall be applied to the allowance payable on  
15 the date this section becomes applicable to the contracting agency,  
16 and the allowance as so increased shall be paid for time on and after  
17 that date and until the first day of April immediately following the  
18 date of application. The base allowance shall be the allowance as  
19 increased under this section. The base year for annual adjustments  
20 of allowances increased by this section shall be the calendar year  
21 preceding the year of increase if the increase date is after April 1st  
22 of any calendar year, and the second calendar year preceding the  
23 year of increase if the increase date is on or before April 1st of any  
24 calendar year.

25 (c) This section shall not apply to any contracting agency  
26 unless the agency elected to be subject to the provisions of this  
27 section in its contract with the board on or before December 31,  
28 2001.

29 ~~SEC. 27.~~

30 SEC. 28. Section 21327 of the Government Code is amended  
31 to read:

32 21327. In addition to the increase in allowance authorized and  
33 granted pursuant to provisions of Section 21313, and  
34 notwithstanding the limitation on those increases imposed by this  
35 article, effective January 1, 1980, or the date this section becomes  
36 applicable to the contracting agency, the monthly allowance paid  
37 with respect to a state or local member, other than a school  
38 member, who retired or died prior to January 1, 1975, shall be  
39 increased by the percentage set forth opposite the year of  
40 retirement or death in the following schedule:



1    Period During Which Retirement 2    or Death Occurred	Percentage
3    12 months ending Dec. 31, 1967 .....	1.51
4    12 months ending Dec. 31, 1968 .....	1.26
5    12 months ending Dec. 31, 1969 .....	1.86
6    12 months ending Dec. 31, 1970 .....	2.55
7    6 months ending June 30, 1971 .....	1.91
8    6 months ending Dec. 31, 1971 .....	7.05
9    12 months ending Dec. 31, 1972 .....	6.76
10   12 months ending Dec. 31, 1973 .....	4.45
11   6 months ending June 30, 1974 .....	0.47
12   6 months ending Dec. 31, 1974 .....	1.31

13  
14    The percentage shall be applied to the allowance payable on  
15    January 1, 1980, or the date this section becomes applicable to the  
16    contracting agency, and the allowance as so increased shall be paid  
17    for time on and after the date and until the first day of April  
18    immediately following the date of application. The base allowance  
19    shall be the allowance as increased under this section. The base  
20    year for annual adjustments of allowances increased by this  
21    section shall be the calendar year preceding the year of increase if  
22    the increase date is after April 1st of any calendar year, and the  
23    second calendar year preceding the year of increase if the increase  
24    date is on or before April 1st of any calendar year.

25    This section shall not apply to any contracting agency unless the  
26    agency elected to be subject to the provisions of this section in its  
27    contract with the board on or before December 31, 2001.

28    ~~SEC. 28.~~

29    SEC. 29. Section 21328 of the Government Code is amended  
30    to read:

31    21328. (a) In addition to the increase in allowance authorized  
32    and granted pursuant to Section 21313, and notwithstanding the  
33    limitation on that increase imposed by this article and subdivision  
34    (b) of Section 21337 or subdivision (a) of Section 21337.1,  
35    effective January 1, 2000, or the date this section becomes  
36    applicable to the contracting agency, the monthly allowance paid  
37    with respect to a state, local, or school member who retired or died  
38    prior to January 1, 2000, or the date this section becomes  
39    applicable to the contracting agency, other than an allowance  
40    provided by Article 3 (commencing with Section 21570) of



1 Chapter 14, shall be increased by the percentage set forth opposite  
2 the year of retirement or death in the following schedule:

3		
4	Period during which retirement	
5	or death occurred:	Percentage:
6	24 months ending Dec. 31, 1999	0.0%
7	12 months ending Dec. 31, 1997	1.0%
8	24 months ending Dec. 31, 1996	2.0%
9	60 months ending Dec. 31, 1994	3.0%
10	60 months ending Dec. 31, 1989	4.0%
11	120 months ending Dec. 31, 1984	5.0%
12	12 months ending Dec. 31, 1974	
13	or earlier	6.0%
14		

15 The percentage shall be applied to the allowance payable on  
16 January 1, 2000, or the date this section becomes applicable to the  
17 contracting agency, and the allowance as so increased shall be paid  
18 for time on and after that date and until the first day of April  
19 immediately following the date of application. The base allowance  
20 shall be the allowance as increased under this section.  
21 Notwithstanding Section 21337 or 21337.1 to the contrary, this  
22 increase shall not be included in determining the initial monthly  
23 allowance upon which a supplemental benefit is payable pursuant  
24 to Section 21337 or 21337.1.

25 (b) This section shall not apply to any contracting agency  
26 unless and until the agency elects to be subject to its provisions by  
27 amendment to its contract, made in the manner prescribed for  
28 approval of contracts, or, in the case of contracts made after the  
29 effective date of this section, by an express provision in the  
30 contract making the contracting agency subject to the provisions  
31 of this section.

32 ~~SEC. 29.~~

33 SEC. 30. Section 21461.5 is added to the Government Code,  
34 to read:

35 21461.5. (a) Notwithstanding Section 21461, a member  
36 retiring for service who became a member of the system on or after  
37 January 1, 2002, and who is covered under the federal system but  
38 is not yet receiving a retirement or disability benefit under that  
39 system, may elect to have the actuarial equivalent of his or her



1 unmodified service retirement allowance paid in two parts as  
2 follows:

3 (1) A temporary annuity that shall not exceed the primary  
4 social security benefit that is anticipated the member shall be  
5 entitled to receive at social security retirement age, which age shall  
6 be designated by the member.

7 (2) A life income consisting of the member's service retirement  
8 annuity plus the pension provided by the actuarial value of the  
9 member's current and prior service pensions remaining after  
10 providing the temporary annuity in paragraph (1).

11 (b) The temporary annuity under paragraph (1) of subdivision  
12 (a) shall not be subject to further optional settlement under this  
13 article and shall be payable monthly as an addition to the member's  
14 monthly life income beginning on the member's effective date of  
15 retirement and continuing until the retired member attains the age  
16 designated by the member under subdivision (a). If the member  
17 dies prior to the designated age, the commuted value of any  
18 installments payable for the period remaining until the member  
19 would have attained that age shall be paid to the member's  
20 designated beneficiary in a lump sum.

21 ~~SEC. 30.~~

22 *SEC. 31.* Section 21547.7 of the Government Code is  
23 amended to read:

24 21547.7. (a) Notwithstanding any other provision of this  
25 article requiring attainment of the minimum age for voluntary  
26 service retirement applicable to him or her in his or her last  
27 employment preceding death, upon the death of a local firefighter  
28 member while in the employ of an agency subject to this section  
29 on or after January 1, 2001, who is credited with 20 years or more  
30 of state service, the surviving spouse, or eligible children, if there  
31 is no eligible spouse, may receive a monthly allowance in lieu of  
32 the basic death benefit. The board shall notify the eligible survivor,  
33 as defined in Section 21546, of this alternate death benefit. The  
34 board shall calculate the monthly allowance that shall be payable  
35 as follows:

36 (1) To the member's surviving spouse, an amount equal to the  
37 amount the member would have received if he or she had retired  
38 for service at the minimum retirement age on the date of death and  
39 had elected optional settlement 2 and Section 21459. The



1 retirement allowance shall be calculated using all service earned  
2 by the member in this system.

3 (2) If the member made a specific beneficiary designation  
4 under Section 21490, the monthly allowance shall be based only  
5 on that portion of the amount the member would have received  
6 described in paragraph (1) that would have been derived from the  
7 nonmember spouse's community property interest in the  
8 member's contributions and service credit.

9 (3) If there is no surviving spouse or the spouse dies before all  
10 of the children of the deceased member attain the age of 18 years,  
11 to the surviving children, under the age of 18 years, collectively,  
12 an amount equal to one-half of, and derived from the same source  
13 as, the unmodified allowance the member would have received if  
14 he or she had retired for service at the minimum retirement age on  
15 the date of death. No child shall receive any allowance after  
16 marrying or attaining the age of 18 years. As used in this  
17 paragraph, "surviving children" includes a posthumously born  
18 child or children of the member. The retirement allowance shall be  
19 calculated using all service earned by the member in this system.

20 (4) The cost of the allowance paid pursuant to this subdivision  
21 shall be paid from the assets of the employer at the member's date  
22 of death. All member contributions made by the member to this  
23 system shall be transferred to the plan assets of the employer liable  
24 for the funding of this benefit.

25 (b) (1) Upon the death of a local firefighter member while in  
26 the employ of an agency subject to this section on or after January  
27 1, 2001, who is credited with 20 years or more of state service and  
28 who has attained the minimum age for voluntary service  
29 retirement applicable to him or her in his or her last employment  
30 preceding death, the surviving spouse may elect to receive a  
31 monthly allowance that is equal to the amount that member would  
32 have received if the member had been retired from service on the  
33 date of death and had elected optional settlement 2 and Section  
34 21459 in lieu of the basic death benefit. The retirement allowance  
35 shall be calculated using all service earned by the member in this  
36 system.

37 (2) If the member made a specific beneficiary designation  
38 under Section 21490, the monthly allowance shall be based only  
39 on that portion of the amount the member would have received  
40 described in paragraph (1) that would have been derived from the



1 nonmember spouse's community property interest in the  
2 member's contributions and service credit.

3 (3) If there is no surviving spouse or the spouse dies before all  
4 of the children of the deceased member attain the age of 18 years,  
5 the allowance shall continue to the surviving children, under the  
6 age of 18 years, collectively, in an amount equal to one-half of, and  
7 derived from the same source as, the unmodified allowance the  
8 member would have received if he or she had been retired from  
9 service on the date of death. No child shall receive any allowance  
10 after marrying or attaining the age of 18 years. As used in this  
11 paragraph, "surviving children" includes a posthumously born  
12 child or children of the member. The retirement allowance will be  
13 calculated using all service earned by the member in this system.

14 (4) The cost of the increase in service allowance paid pursuant  
15 to this subdivision shall be paid from the assets of the employer at  
16 the member's date of death.

17 (c) This section shall not apply to any contracting agency, nor  
18 to the employees of any contracting agency, unless and until the  
19 agency elects to be subject to this section by amendment to its  
20 contract made in the manner prescribed for approval of contracts,  
21 except that an election among the employees is not required.

22 ~~SEC. 31.~~

23 *SEC. 32.* Section 21751 of the Government Code is amended  
24 to read:

25 21751. The definitions in Part 3 (commencing with Section  
26 20000) shall apply to this part. The following definition shall also  
27 govern the interpretation of this part:

28 "Participating agency" means any public agency that meets the  
29 criteria for becoming a contracting agency in this system pursuant  
30 to Chapter 5 (commencing with Section 20460) of Part 3, but that  
31 has not elected to participate in this system as a contracting agency,  
32 and that elects to contract with the board to participate in the  
33 replacement benefit plan administered pursuant to this part by the  
34 board.

35 ~~SEC. 32.~~

36 *SEC. 33.* Section 21757 of the Government Code is amended  
37 to read:

38 21757. (a) If the retirement benefits of any member or his or  
39 her survivors or beneficiaries payable pursuant to Part 3  
40 (commencing with Section 20000) would be limited by Section



1 415 of Title 26 of the United States Code, the board shall adjust the  
2 payment of those benefits, including, but not limited to,  
3 cost-of-living adjustments, cost-of-living banks, temporary  
4 annuities, survivor continuance benefits, or any combinations  
5 thereof, in order to maximize benefits within the limits of Section  
6 415.

7 (b) The board shall establish a plan of replacement benefits for  
8 members and any survivors or beneficiaries whose retirement  
9 benefits are limited by Section 415 and cannot be fully maximized  
10 pursuant to Part 3 (commencing with Section 20000). The benefits  
11 provided by that plan may consist of deferred compensation, cash  
12 payments, health benefits, or supplemental disability benefits, as  
13 shall be determined by the board to give effect to the purpose of  
14 this part. The factors the board may take into consideration in  
15 making its determination shall include, but not be limited to, the  
16 following: legal constraints, administrative feasibility, and cost  
17 effectiveness. The board may periodically modify the replacement  
18 benefits plan and may add or eliminate any type of replacement  
19 benefits, as necessary, to carry out the purpose of this part. The  
20 administrative costs of the replacement benefits plan shall be  
21 satisfied out of funds credited to the accounts of the participant  
22 members, and shall not be paid from the retirement fund or the  
23 retirement trust fund of a participating agency.

24 (c) The application of Section 415 to benefits provided under  
25 Part 3 (commencing with Section 20000) and this part shall not be  
26 taken into account for purposes of determining employers' or  
27 employees' contribution rates, until replacement benefits are  
28 implemented pursuant to Section 21758.

29 (d) Under no circumstances shall the replacement benefit plan  
30 result in increased benefit costs to an employer, member, or  
31 annuitant.

32 ~~SEC. 33.~~

33 *SEC. 34.* Section 21758 of the Government Code is amended  
34 to read:

35 21758. (a) There is in the State Treasury a Replacement  
36 Benefit Custodial Fund, that shall be administered exclusively by  
37 the board, that is separate and apart from the retirement fund or any  
38 other retirement trust fund and that is, notwithstanding Section  
39 13340, continuously appropriated, without regard to fiscal years,  
40 to the board to carry out the purposes of this part.



1 (b) The earnings on the assets of the Replacement Benefit  
2 Custodial Fund are continuously appropriated to the board for  
3 expenditure solely to pay the costs of administering this part.

4 (c) The Replacement Benefit Custodial Fund shall also consist  
5 of employer contributions, in amounts equivalent to the benefits  
6 that are not paid from either the retirement fund or the retirement  
7 trust fund of a participating agency to annuitants because of the  
8 application of the payment limitations under Section 415 of Title  
9 26 of the United States Code; and administrative costs assessed to  
10 and paid by members enrolled in the replacement benefit plan.

11 (d) The board shall determine the amount of employer  
12 contributions required for deposit into the Replacement Benefit  
13 Custodial Fund, based on all of the following:

14 (1) The amount of benefits that will not be payable from the  
15 retirement fund, or the retirement trust fund of a participating  
16 agency, because of the payment limitations in Section 415.

17 (2) The amount by which an employer's contributions to the  
18 retirement fund, or the retirement fund of a participating agency  
19 shall be reduced, for annuitants whose benefit payments are  
20 limited by Section 415.

21 (e) The board shall establish within the Replacement Benefit  
22 Custodial Fund an individual account for each annuitant whose  
23 benefit payments are limited by Section 415. Employer  
24 contributions shall be credited to each account as of the date  
25 accrued and payable to the account of each annuitant as of the date  
26 on which the contribution is made. Replacement benefits shall be  
27 debited from each account as of the date paid to each annuitant.

28 (f) If all sections of this part, except Section 21763 and this  
29 section, become inoperative, pursuant to Section 21763, and all  
30 acts required and authorized by Section 21763 have been fully  
31 performed, any remaining balance in a member's individual  
32 account in the Replacement Benefit Custodial Fund shall revert to,  
33 and become part of, the trust fund of the retirement system from  
34 which the member retired.

35 ~~SEC. 34.~~

36 *SEC. 35.* Section 21761 of the Government Code is amended  
37 to read:

38 21761. The state, school employers, as defined in Section  
39 20063, and all contracting agencies under this system shall be  
40 deemed to have elected to contract with the board for



1 administration of the replacement benefit plan pursuant to this  
2 part. A participating agency may contract with the board for  
3 administration to participate in the replacement benefit plan  
4 administered by the board, as follows:

5 (a) A participating agency shall deposit its replacement benefit  
6 contributions into the Replacement Benefit Custodial Fund, as the  
7 board directs.

8 (b) At the request of the board, the participating agency shall  
9 furnish any data concerning its members the board requires to  
10 direct the payment of replacement benefit contributions.

11 (c) A public agency that intends to contract under this section  
12 and become a participating agency shall do so only pursuant to the  
13 procedure set forth in Sections 20469 to 20471, inclusive.

14 (d) The ordinance or resolution by which a public agency  
15 approves a contract under this section shall be filed with the board.  
16 A participating agency under this section shall not maintain any  
17 other replacement benefit plan, except upon the express approval  
18 of the board.

19 (e) A contract entered into under this section may be amended  
20 pursuant to the procedure set forth in Section 20472.

21 ~~SEC. 35.~~

22 *SEC. 36.* Section 21764 of the Government Code is amended  
23 to read:

24 21764. It is the sole intent of the Legislature, in enacting this  
25 part, to fully comply with the provisions of the Internal Revenue  
26 Code that apply to public retirement systems in order to maintain  
27 and ensure the federal income tax exempt status of the Public  
28 Employees' Retirement System, to elect the "grandfather" option  
29 in Section 415(b)(10) of Title 26 of the United States Code, and  
30 to provide, to the extent deemed reasonable, commensurate  
31 replacement benefits to affected members of this system and of  
32 other participating agencies that elect to contract with this system  
33 for the administration of a replacement benefits plan.

34 The Legislature finds and declares that all costs of local public  
35 agencies and local public retirement systems of complying with  
36 Section 415 of Title 26 of the United States Code are a federal  
37 mandate within the meaning of Section 6 of Article XIII B of the  
38 California Constitution and Part 7 (commencing with Section  
39 17500) of Division 4 of Title 2, as construed in *City of Sacramento*  
40 *v. State of California* (50 Cal. 3d 51).



1 It is the intent of the Legislature, in enacting this part, to not  
2 impose upon local public agencies that are contracting agencies  
3 with this system or upon other local public agencies that elect to  
4 contract with this system for the administration of a replacement  
5 benefits plan, state-reimbursable, state-mandated local program  
6 benefit costs within the meaning of Section 6 of Article XIII B of  
7 the California Constitution and Part 7 (commencing with Section  
8 17500) of Division 4 of this title.

9 If either the Commission on State Mandates or a court  
10 determines that this part imposes upon any local agency  
11 state-mandated local program benefit costs, notwithstanding any  
12 other provision of law, no reimbursement therefor shall be made  
13 from the State Mandates Claims Fund pursuant to Part 7  
14 (commencing with Section 17500) of Division 4 of this title or  
15 from any other state fund.

16 ~~SEC. 36.~~

17 *SEC. 37.* Section 22013.98 is added to the Government Code,  
18 to read:

19 22013.98. For purposes of Section 218(d)(5)(A) of the Social  
20 Security Act (42 U.S.C. Sec. 418(d)(5)(A)):

21 (a) “Fireman,” as used in this part, also includes any employee  
22 of the City of Long Beach Fire Department employed in the  
23 Marine Safety Division to perform lifeguard services and whose  
24 principal duties consist of active protection, rescue, and rendition  
25 of aid or assistance to persons injured or imperiled at beaches,  
26 lakes, flood control systems, rivers, or other bodies of open water.  
27 “Fireman” also includes employees hired to perform duties under  
28 the titles of “Superintendent of Marine Safety,” “Marine Safety  
29 Officer,” “Marine Safety Captain,” “Marine Safety  
30 Sergeant/Boat Operators,” or any equivalent successor class, of  
31 which the principal duties are customarily performed by police  
32 peace officers and include the maintenance of peace and order and  
33 the apprehension of law violators, and whose other duties are  
34 customarily performed by firemen, such as resuscitation work  
35 involving the use of special equipment.

36 (b) “Fireman” as used in this part, excludes persons employed  
37 on a seasonal basis or persons who perform clerical, maintenance  
38 activities, and others whose primary duties do not include active  
39 life guarding or life saving services as described in subdivision (a),



1 even if those persons are occasionally called upon to perform life  
 2 guarding or life saving services.

3 ~~SEC. 37.~~

4 *SEC. 38.* Section 22819 of the Government Code is amended  
 5 to read:

6 22819. Employees, annuitants, and their family members  
 7 who become eligible on or after January 1, 1985, for Part A and  
 8 Part B of Medicare shall not be enrolled in a basic health benefits  
 9 plan. If the employee, annuitant, or their family member is  
 10 enrolled in Part A and Part B of Medicare, he or she may enroll in  
 11 a supplement to Medicare plan. This section shall not apply to  
 12 employees and family members which are specifically excluded  
 13 from enrollment in a supplement to Medicare plan by federal law  
 14 or regulation.

15 ~~SEC. 38.—~~

16 *SEC. 39.* *Section 22821.1 of the Government Code is*  
 17 *amended to read:*

18 22821.1. All ~~eligible~~ family members of a deceased employee  
 19 of a contracting agency who are eligible, *but not enrolled*, for  
 20 coverage hereunder on the date of the employee's death shall be  
 21 deemed to be annuitants under subdivision (e) of Section 22754 for  
 22 the purpose of enrollment, pursuant to Section 22810, and  
 23 continuing their enrollment hereunder.

24 With respect to those eligible family members who enroll, a  
 25 contracting agency shall remit the amounts required under  
 26 subdivision (2) of Section 22826 and Section 22831 as well as the  
 27 total amount of premium required from employer and enrollees  
 28 hereunder in accordance with regulations of the board. Enrollment  
 29 of those annuitants shall be continuous as of the effective date of  
 30 their enrollment specified in Section 22810 so long as they meet  
 31 the eligibility requirements of subdivision (f) of Section 22754 and  
 32 regulations pertinent thereto. Failure to timely pay the required  
 33 premiums and costs shall terminate coverage without recourse to  
 34 reenrollment, and the cancellation of coverage by an annuitant will  
 35 be final without option to reenroll. The contracting agency may  
 36 elect to require the family members to pay all or any part of the  
 37 employer premium for the enrollment.

38 This section shall apply to a contracting agency only upon the  
 39 filing with the board of a resolution of its governing board electing  
 40 to be subject to this section.



1     *SEC. 40.* Section 22857 of the Government Code is amended  
2 to read:

3     22857. A contracting agency including a school district,  
4 county board of education, personnel commission of a school  
5 district, or a county superintendent of schools that has elected to  
6 be subject to this part:

7     (a) Shall by resolution establish the employer contribution for  
8 employees and the employer contribution for annuitants. The  
9 resolution shall be filed with the board and the contribution shall  
10 be effective at the time that is provided in board regulations.

11     (b) May, notwithstanding Section 22825, establish a lesser  
12 monthly employer contribution for annuitants than for employees,  
13 provided that the monthly contribution for annuitants shall be  
14 annually increased by an amount not less than 5 percent of the  
15 monthly employer contribution for employees, until the time that  
16 the employer contribution for annuitants equals the employer  
17 contribution paid for employees.

18     This subdivision shall only apply to agencies who first become  
19 subject to this part on or after January 1, 1986.

20     ~~SEC. 39.~~

21     *SEC. 41.* Section 31657 of the Government Code is amended  
22 to read:

23     31657. Subject to Section 20588, whenever, as a result of the  
24 assumption by a county, fire authority, or district of firefighting or  
25 law enforcement functions performed by a public agency or the  
26 state subject to the Public Employees' Retirement Law, any person  
27 ceases to be employed by a public agency or the state and is  
28 employed by a county, fire authority, or district in which this  
29 chapter has become operative, that person shall become a member  
30 of the retirement system of a county immediately upon entering  
31 county service. That member of the county retirement system shall  
32 be entitled to service credit in the county retirement system for the  
33 service for which he or she was entitled to credit in the Public  
34 Employees' Retirement System at the time of cessation of  
35 employment by the public agency or the state, without necessity  
36 of payment of any additional contributions in respect to that  
37 service, when and if all of the following occur:

38     (a) The board of retirement receives certification from the  
39 Board of Administration of the Public Employees' Retirement  
40 System of the service with which the person was entitled to be



1 credited by the Public Employees' Retirement System at the time  
2 of cessation of his or her public agency or state employment.

3 (b) There is paid into the county retirement fund of the county,  
4 an amount equal to the normal contributions of the person to the  
5 Public Employees' Retirement System, together with all interest  
6 credited thereto, which amount shall be credited to the individual  
7 account of the member in the county retirement system, and shall  
8 thereafter for all purposes be deemed to be the member's  
9 contribution to the county retirement system with respect to the  
10 service so certified.

11 (c) There is paid to the retirement system of the county an  
12 amount equal to all contributions of the public agency or the state  
13 made to the Public Employees' Retirement System on account of  
14 service rendered by the person together with interest credited to the  
15 public agency or the state thereto.

16 (d) The board of retirement elects to apply this section as a  
17 prudent means of mitigating against potential adverse financial  
18 impact upon the county retirement system from the cost of  
19 disability retirements that may be applied for in the future by  
20 persons injured while being employed by the county, fire  
21 authority, or district after ceasing to be employed by a public  
22 agency or the state as a result of the assumption by a county, fire  
23 authority, or district of firefighting or law enforcement functions.

24 This section shall apply in a county of the first, the second, or  
25 the fourteenth class, as defined by Section 28020, as amended by  
26 Chapter 1204 of the Statutes of 1971, and Section 28022, as  
27 amended by Chapter 43 of the Statutes of 1961, and Section 28023,  
28 as amended by Chapter 1204 of the Statutes of 1971.

