

AMENDED IN ASSEMBLY FEBRUARY 11, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 30

Introduced by Assembly Member Negrete McLeod
(Coauthors: Assembly Members Bass, Bermudez, DeVore, Dymally, Evans, Jerome Horton, Shirley Horton, and Salinas)

December 6, 2004

An act to amend Sections 20069, ~~20282~~, 20303, 20305, 20822, 20894, 20896, 21023, 21024, 21027, 21029, 21117, and 31649 of, and to add Sections 20326, 20772.5, 20823, 20935, 20992, and 21029.5 to, the Government Code, and to amend Sections 215, 228, and 256 of the Military and Veterans Code, relating to public employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 30, as amended, Negrete McLeod. Retirement: military service.

(1) Existing law provides that specified state military personnel become state members of the Public Employees' Retirement System when they are placed on full-time active duty. Existing law generally excludes part-time employees from membership in the retirement system, subject to certain exceptions. Existing law authorizes state and school members of the retirement system to receive up to 4 years of service credit for prior military service, if those members pay certain additional contributions to the retirement system. Member contributions to the retirement system are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would provide that officers, warrant officers, and enlisted personnel of ~~specified state military organizations~~ *the California National Guard* shall become state members of the retirement system,

and be referred to as ~~military~~ *National Guard* members, upon completing at least one year of satisfactory service, whether part-time or full-time, as determined by the Military Department and would authorize those persons to be members of the system even though they are serving on a part-time basis. *These National Guard members would be classified as state miscellaneous members.* The bill would provide that employer contributions to the retirement fund for these members would be subject to appropriation in the annual Budget Act and would be paid by the member if no appropriation is made for that purpose. The bill would also authorize those members to receive service credit for their prior satisfactory service, whether full-time or part-time, ~~in those state military organizations~~ *the California National Guard*, if those members pay certain additional contributions to the retirement system.

By increasing member contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(2) Existing law prohibits a member of the Public Employees' Retirement System from receiving credit for the same service in 2 public retirement systems.

This bill would make that prohibition inapplicable to ~~military~~ *National Guard* members, as specified.

(3) Existing law prohibits a member of the Public Employees' Retirement System who receives military retirement pay based on 20 or more years of active duty in the armed forces from also receiving service credit under the system for that military service. However, that prohibition does not apply to credit toward military retirement pay that is earned for active and nonactive reserve duty and that is payable only upon attainment of a specified age.

Under this bill, that prohibition also would not apply to credit toward military retirement pay that is payable only upon attainment of a specified age and that is earned through full-time National Guard duty.

(4) Existing law authorizes members of the Public Employees' Retirement System to receive service credit for prior military service if the member pays certain additional contributions to the Public Employees' Retirement Fund and other conditions are met. The maximum amount of service credit that a member may receive for that prior service is 4 years. Existing law also authorizes a state member of the retirement system to receive service credit for time, up to 5 years, during which the member was a prisoner of war, was hospitalized

following his or her release from captivity, or was in the armed forces following a disabling wound, injury, or disease attributable to combat. The state member may receive that service credit only if he or she pays certain additional contributions to the Public Employees' Retirement Fund and other conditions are met. However, a member may not receive that service credit if he or she is receiving military retirement pay or disability retirement pay from one of the armed forces, as specified.

This bill would eliminate that 4-year limitation on the amount of service credit a member may receive for prior military service. The bill would also permit a state member to receive service credit for any time during which the member was a prisoner of war, was hospitalized following his or her release from captivity, or was in the armed forces following a disabling wound, injury, or disease attributable to combat, whether or not he or she is receiving military retirement pay or disability retirement pay from one of the armed forces. By increasing contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(5) Existing law, upon approval by the county board of supervisors, authorizes a member of a retirement system established under the County Employees Retirement Law of 1937 to receive service credit for time during which he or she was absent from county service and serving in the armed forces if, among other things, the military service is not the basis for present or future military retirement pay.

This bill would authorize that member to receive that service credit whether his or her military service is the basis for present or future military retirement pay.

(6) Existing law provides that members of the California National Guard, California Air National Guard, and California National Guard Reserve receive credit for time served on full-time active duty in the armed forces of the United States or any reserve component as if that service had been rendered in the state forces. That credit applies to, among other things, computing length of state service for military retirement with pay.

Under this bill, those members would also receive credit for satisfactory time served on part-time duty, as determined by the Military Department.

(7) Existing law authorizes specified officers and enlisted members on active duty with the Adjutant General who are not members of the Public Employees' Retirement System to receive military retirement

with pay, as specified, based on a computation of state service. However, inactive service in a reserve component of the armed forces of the United States is excluded from that computation.

This bill would eliminate that exclusion.

(8) The bill would make related legislative findings and declarations.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) ~~The California National Guard, the State Military Reserve,~~
4 ~~and the Naval Militia are military organizations~~ *is a military*
5 *organization* in California that ~~serve~~ *serves* essential public
6 safety purposes and routinely ~~support~~ *supports* local authorities
7 in protecting the lives and property of the people of the state
8 during periods of natural disaster and civil disturbance, and
9 provide homeland security.

10 (b) The California National Guard has full-time civil support
11 teams whose primary purpose is to engage in public safety
12 actions by responding to actual or suspected incidents of
13 terrorism in the state. The civil support teams work closely with
14 law enforcement, fire, medical, and other emergency first
15 responders to assist and advise incident commanders and also to
16 train and conduct exercises in the local communities to support
17 public safety by ensuring adequate and efficient responses to
18 emergencies. The civil support teams provide state-of-the-art
19 public safety equipment and highly specialized resources and are
20 the lead element in the California National Guard’s response
21 cycle for all hazardous incidents and emergencies.

22 (c) It is the intent of the Legislature to further the public
23 purposes service by the California National Guard, ~~the State~~
24 ~~Military Reserve, and the Naval Militia~~ by providing members of
25 ~~those organizations~~ *this organization* with pension benefits
26 provided to other state ~~safety employees~~ *miscellaneous members*.

27 SEC. 2. ~~Section 20069 of the Government Code is amended~~
28 ~~to read:~~

1 ~~20069. (a) “State service” means service rendered as an~~
2 ~~employee or officer (employed, appointed or elected) of the state,~~
3 ~~the university, a school employer, or a contracting agency, for~~
4 ~~compensation, and only while he or she is receiving~~
5 ~~compensation from that employer therefor, except as provided in~~
6 ~~Article 4 (commencing with Section 20990) of Chapter 11.~~

7 ~~(b) “State service,” solely for purposes of qualification for~~
8 ~~benefits and retirement allowances under this system, shall also~~
9 ~~include service rendered as an officer or employee of a county if~~
10 ~~the salary for the service constitutes compensation earnable by a~~
11 ~~member of this system under Section 20638.~~

12 ~~(c) “State service,” solely for purposes of qualification for~~
13 ~~benefits and retirement allowances under this system, shall also~~
14 ~~include compensated service rendered by a military member~~
15 ~~described in subdivision (b) of Section 20282.~~

16 ~~SEC. 3. Section 20282 of the Government Code is amended~~
17 ~~to read:~~

18 ~~20282. (a) All officers, warrant officers, and enlisted~~
19 ~~personnel of the California National Guard, the State Military~~
20 ~~Reserve, and the Naval Militia who are placed on full-time active~~
21 ~~duty with the office of the Adjutant General, pursuant to Sections~~
22 ~~142, 167, 321, 340, and 551 of the Military and Veterans Code,~~
23 ~~shall become members in the same manner and under the same~~
24 ~~conditions as under this article apply to other state employees.~~
25 ~~The retirement benefit provisions of the Military and Veterans~~
26 ~~Code do not apply to those persons. This section does not apply~~
27 ~~to the Adjutant General or the Assistant Adjutant General.~~

28 ~~(b) All officers, warrant officers, and enlisted personnel of the~~
29 ~~California National Guard, the State Military Reserve, and the~~
30 ~~Naval Militia who complete at least one year of satisfactory~~
31 ~~service, whether part-time or full-time, shall become members of~~
32 ~~the system.~~

33 ~~(c) The Military Department shall determine what constitutes~~
34 ~~“satisfactory service” and “full-time” and “part-time” service for~~
35 ~~the purposes of this section and shall certify to the board and,~~
36 ~~upon request, to members of those military organizations that a~~
37 ~~member has performed the minimum amount of satisfactory~~
38 ~~service and is eligible for membership in the system. The~~
39 ~~Military Department shall also report to the board any~~
40 ~~employment and other information requested by the board for~~

1 ~~purposes of this section. Persons who become members of the~~
2 ~~system pursuant to this subdivision are referred to as military~~
3 ~~members.~~

4 *SEC. 2. Section 20069 of the Government Code is amended to*
5 *read:*

6 20069. (a) “State service” means service rendered as an
7 employee or officer (employed, appointed or elected) of the state,
8 the California Institute for Regenerative Medicine and the
9 officers and employees of its governing body, the university, a
10 school employer, or a contracting agency, for compensation, and
11 only while he or she is receiving compensation from that
12 employer therefor, except as provided in Article 4 (commencing
13 with Section 20990) of Chapter 11.

14 (b) “State service,” solely for purposes of qualification for
15 benefits and retirement allowances under this system, shall also
16 include service rendered as an officer or employee of a county if
17 the salary for the service constitutes compensation earnable by a
18 member of this system under Section 20638.

19 (c) “State service,” solely for purposes of qualification for
20 benefits and retirement allowances under this system, shall also
21 include compensated service rendered by a National Guard
22 member described in Section 20326.

23 ~~SEC. 4.~~

24 *SEC. 3. Section 20303 of the Government Code is amended*
25 *to read:*

26 20303. (a) Persons who are members of any other retirement
27 or pension system supported wholly or in part by funds of the
28 United States government, any state government, or any political
29 subdivision thereof and who are receiving credit in the other
30 system for service are, as to that service, excluded from this
31 system.

32 (b) This section does not apply to credit for state service, as
33 defined in subdivision (c) of Section 20069.

34 (c) (1) For the purpose of this section only, persons who are
35 receiving pensions, retirement allowances, or other payments,
36 from any source whatever, on account of service rendered to an
37 employer other than the state and while they were not in state
38 service, are not, because of that receipt, members of any other
39 retirement or pension system.

1 (2) For the purposes of this section only, persons who
2 participate in a deferred compensation plan established pursuant
3 to Chapter 4 (commencing with Section 19993) or Chapter 8.6
4 (commencing with Section 19999.3) of Part 2.6 or pursuant to
5 Article 1.1 (commencing with Section 53212) of Chapter 2 of
6 Part 1 of Division 2 of Title 5, are not, because of that
7 participation, members of any other retirement or pension
8 system.

9 (3) For the purposes of this section only, persons who
10 participate in a money purchase pension plan and trust that meets
11 the requirements of Section 401(a) of Title 26 of the United
12 States Code are not, because of that participation, members of
13 any other retirement or pension system, so long as the contracting
14 agency has received a ruling from the Internal Revenue Service
15 stating that the money purchase pension plan and trust qualifies
16 under Section 401(a) and furnishes proof thereof upon request by
17 the board.

18 (4) For the purposes of this section only, persons who
19 participate in a supplemental defined benefit plan maintained by
20 their employer that meets the requirements of Section 401(a) of
21 Title 26 of the United States Code are not, because of that
22 participation, members of another retirement or pension system,
23 provided that all of the following conditions exist:

24 (A) The defined benefit plan provided under this part has been
25 designated as the employer's primary plan for the person.

26 (B) The supplemental defined benefit plan has received a
27 ruling from the Internal Revenue Service stating that the plan
28 qualifies under Section 401(a) of Title 26 of the United States
29 Code, and has furnished proof thereof to the employer and, upon
30 request, to the board.

31 (C) The person's participation in the supplemental defined
32 benefit plan does not, in any way, interfere with the person's
33 rights to membership in the defined benefit plan, or any benefit
34 provided, under this part.

35 ~~SEC. 5.~~

36 *SEC. 4.* Section 20305 of the Government Code is amended
37 to read:

38 20305. (a) An employee serving on a less than full-time basis
39 is excluded from this system unless:

1 (1) He or she is a member at the time he or she renders less
2 than full-time service and is not otherwise excluded pursuant to
3 this article or by a provision of a contract.

4 (2) His or her position requires regular, part-time service for
5 one year or longer for at least an average of 20 hours a week, or
6 requires service that is equivalent to at least an average of 20
7 hours a week, unless he or she elects membership pursuant to
8 Section 20325.

9 (3) His or her employment is, in the opinion of the board, on a
10 seasonal, limited-term, on-call, emergency, intermittent,
11 substitute, or other irregular basis, and is compensated and meets
12 one of the following conditions:

13 (A) The appointment or employment contract fixes a term of
14 full-time, continuous employment in excess of six months or, if a
15 term is not fixed, full-time employment continues for longer than
16 six months, in which case membership shall be effective not later
17 than the first day of the first pay period of the seventh month of
18 employment.

19 (B) The person works more than 125 days, if employed on a
20 per diem basis or, if employed on other than a per diem basis,
21 1,000 hours within the fiscal year, in which case, membership
22 shall be effective not later than the first day of the first pay period
23 of the month following the month in which 125 days or 1,000
24 hours of service were completed. For purposes of this
25 subdivision, “day” means each eight-hour period of employment
26 worked by an employee paid on a per diem basis so that
27 membership is effective after he or she has completed 1,000
28 hours of compensated service in a fiscal year.

29 (C) The person is employed by the Department of Forestry and
30 Fire Protection in one of the positions that provide state safety
31 membership pursuant to Section 20400 or state peace
32 officer/firefighter membership pursuant to Section 20392.

33 (4) He or she is a temporary faculty member of the California
34 State University and meets one of the following conditions:

35 (A) He or she works two consecutive semesters or three
36 consecutive quarters at half-time or more, and is not otherwise
37 excluded pursuant to this article, in which case, membership shall
38 be effective with the start of the next consecutive semester or
39 quarter if the appointment requires service of half-time or more.

1 (B) He or she works two consecutive semesters or three
2 consecutive quarters at a minimum teaching load of six weighted
3 units, and is not otherwise excluded pursuant to this article, in
4 which case membership shall be effective at the start of the next
5 consecutive semester or quarter, but not earlier than July 1, 2004,
6 if the appointment requires service of six weighted units or more.
7 This subparagraph does not apply to faculty members unless
8 provided for in a memorandum of understanding agreed upon, on
9 or after January 1, 2003, pursuant to Chapter 12 (commencing
10 with Section 3560) of Division 4 of Title 1, or authorized by the
11 Trustees of the California State University for employees
12 excluded from collective bargaining.

13 (5) He or she is a member of the Board of Prison Terms, the
14 State Personnel Board, or the State Air Resources Board and
15 elects to become a member pursuant to Section 20320.

16 (6) He or she is participating in partial service retirement,
17 pursuant to Article 1.7 (commencing with Section 19996.30) of
18 Chapter 7 of Part 2.6.

19 (7) He or she is an officer, warrant officer, or enlisted member
20 of the California National Guard, ~~the State Military Reserve, or~~
21 ~~the Naval Militia~~ and he or she has completed at least one year of
22 satisfactory service as provided in Section ~~20282~~ 20326.

23 (8) He or she is included by specific provision of the board
24 relating to the exclusion of less than full-time employees.

25 (b) This section shall supersede any contract provision
26 excluding persons in any temporary or seasonal employment
27 basis and shall apply only to persons entering employment on
28 and after January 1, 1975. Except as provided in Section 20502,
29 no contract or contract amendment entered into after January 1,
30 1981, shall contain any provision excluding persons on an
31 irregular employment basis.

32 *SEC. 5. Section 20326 is added to the Government Code, to*
33 *read:*

34 *20326. (a) All officers, warrant officers, and enlisted*
35 *personnel of the California National Guard, who complete at*
36 *least one year of satisfactory service, whether part-time or*
37 *full-time, may elect to become members of the system.*

38 *(b) The Military Department shall determine what constitutes*
39 *“satisfactory service” and “full-time” and “part-time” service*
40 *for the purposes of this section and shall certify to the board and,*

1 upon request, to members of the California National Guard that
2 a member has performed the minimum amount of satisfactory
3 service and is eligible to elect membership in the system. The
4 Military Department shall also report to the board any
5 employment and other information requested by the board for
6 purposes of this section. Persons who become members of the
7 system pursuant to this subdivision are referred to as National
8 Guard members, and shall be classified as state miscellaneous
9 members.

10 SEC. 6. Section 20772.5 is added to the Government Code, to
11 read:

12 20772.5. (a) A ~~military~~ National Guard member shall
13 contribute to the retirement fund at the rate certified by the board
14 and applied to the compensation earnable by him or her during
15 the period or periods of the contribution. In addition to the
16 normal rate of contribution provided in Section 20677, a ~~military~~
17 National Guard member shall also pay the employer
18 contribution, at the rate established in Section 20814, attributable
19 to that member's service until such time as that employer
20 contribution is paid by the state pursuant to an appropriation in
21 the annual Budget Act, as provided in Section 20823.

22 (b) The Military Department shall notify the member of his or
23 her total rate of contribution and the amount of the monthly
24 contribution payable by him or her to the retirement fund, and
25 shall furnish to the board a list of the members subject to this
26 section and the rate of compensation earnable by each. Within 15
27 days after receipt of the notice from the department, the member
28 shall transmit his or her contribution in respect to the service
29 described in the notice to the office of the system in Sacramento.
30 If the member fails to pay the contribution within 30 days after
31 receipt of the notice, the amount of contribution due shall accrue
32 interest, at the rate provided in Section 20059, until paid by the
33 member. A member may not be credited with any service under
34 this part until the contribution with respect to that service, plus
35 accrued interest, if any, is paid in full.

36 SEC. 7. Section 20822 of the Government Code is amended
37 to read:

38 20822. (a) From the General Fund in the State Treasury there
39 is appropriated quarterly, to the retirement fund, the state's
40 contribution for all of the following:

1 (1) All state miscellaneous members and all other categories
2 of members whose compensation is paid from the General Fund,
3 except as provided in Section 20823.

4 (2) All university members whose compensation is paid from
5 funds of, or funds appropriated to, the university.

6 (3) All state miscellaneous members who are employed by the
7 State Department of Education or the Department of
8 Rehabilitation and whose compensation is paid from the
9 Vocational Education Federal Fund, the Vocational
10 Rehabilitation Federal Fund, or any other fund received, in whole
11 or in part, as a donation to the state under restrictions preventing
12 its use for state contributions to the retirement system.

13 (4) All state miscellaneous members and all other categories
14 of members whose compensation is paid from the Senate
15 Operating Fund or the Assembly Operating Fund or the
16 Operating Funds of the Assembly and Senate.

17 (b) No appropriation shall be required pursuant to this section
18 with respect to any state member who, pursuant to Section
19 20281.5, is not accruing service credit during the first 24 months
20 of service, unless and until that service credit is credited to the
21 member.

22 SEC. 8. Section 20823 is added to the Government Code, to
23 read:

24 20823. The state's contribution for ~~military~~ *National Guard*
25 members shall be paid to the retirement fund only if funds are
26 appropriated for that purpose in the annual Budget Act.

27 SEC. 9. Section 20894 of the Government Code is amended
28 to read:

29 20894. (a) A person shall not receive credit for the same
30 service in two retirement systems supported wholly or in part by
31 public funds under any circumstance.

32 (b) This section does not apply to credit for state service, as
33 defined in subdivision (c) of Section 20069.

34 (c) Nothing in this section precludes concurrent participation
35 and credit for service in a public retirement system and in a
36 deferred compensation plan established pursuant to Chapter 4
37 (commencing with Section 19993) or Chapter 8.6 (commencing
38 with Section 19999.3) of Part 2.6 or pursuant to Article 1.1
39 (commencing with Section 53212) of Chapter 2 of Part 1 of
40 Division 2 of Title 5, a tax-deferred retirement plan that meets

1 the requirements of Section 401(k) of Title 26 of the United
2 States Code, or a money purchase pension plan and trust that
3 meets the requirements of Section 401(a) of Title 26 of the
4 United States Code.

5 (d) Nothing in this section precludes concurrent participation
6 and credit for service in the defined benefit plan provided under
7 this part and in a supplemental defined benefit plan maintained
8 by the employer that meets the requirements of Section 401(a) of
9 Title 26 of the United States Code, provided all of the following
10 conditions exist:

11 (1) The defined benefit plan provided under this part has been
12 designated as the employer's primary plan for the person.

13 (2) The supplemental defined benefit plan has received a
14 ruling from the Internal Revenue Service stating that the plan
15 qualifies under Section 401(a) of Title 26 of the United States
16 Code, and has furnished proof thereof to the employer and, upon
17 request, to the board.

18 (3) The person's participation in the supplemental defined
19 benefit plan does not, in any way, interfere with the person's
20 rights to membership in the defined benefit plan, or any benefit
21 provided, under this part.

22 SEC. 10. Section 20896 of the Government Code is amended
23 to read:

24 20896. A member who is receiving military retirement pay
25 based on 20 or more years of active duty with the armed forces
26 shall be deemed to have received credit in a publicly supported
27 retirement system for all service performed with the armed
28 forces. Credit toward military retirement pay that is earned, in
29 whole or in part, through full-time National Guard duty or by a
30 combination of active duty and nonactive duty with a reserve
31 component of the armed forces and where the retirement pay is
32 payable only upon the attainment of a specified age shall not be
33 deemed credit in a publicly supported retirement system.

34 SEC. 11. Section 20935 is added to the Government Code, to
35 read:

36 20935. This article does not apply to ~~military~~ *National Guard*
37 members described in ~~subdivision (b) of Section 20282~~ *Section*
38 *20326*.

39 SEC. 12. Section 20992 is added to the Government Code, to
40 read:

1 20992. This article does not apply to ~~military~~ *National Guard*
2 members described in ~~subdivision (b) of Section 20282~~ *Section*
3 *20326*.

4 SEC. 13. Section 21023 of the Government Code is amended
5 to read:

6 21023. (a) “Public service” with respect to a state member,
7 other than a university member, also means the following:

8 (1) Time during which the member was a prisoner of war
9 involving the United States, plus the time, if any, during which a
10 member was hospitalized following his or her release from
11 captivity for a disabling wound, injury, or disease directly
12 attributable to that captivity but not to include hospitalization
13 after the member’s honorable and permanent medical separation
14 from the armed forces.

15 (2) Time between the onset of the member’s disabling wound,
16 injury, or disease, directly attributable to service in combat with
17 the armed forces during a war involving the United States, and
18 the date of the member’s honorable and permanent medical
19 separation from the armed forces due to the disabling condition,
20 if the member has a permanent disability rating in excess of 50
21 percent, that percentage having been determined under applicable
22 federal law.

23 (b) For the purposes of this section, a war involving the United
24 States exists in any of the following circumstances:

25 (1) Whenever Congress has declared war and peace has not
26 been formally restored.

27 (2) Whenever the United States is engaged in active military
28 operations against any foreign power, whether or not a war has
29 been formally declared.

30 (3) Whenever the United States is assisting the United
31 Nations, in actions involving the use of the armed forces, to
32 maintain or restore international peace and security.

33 (c) A member electing to receive credit for public service
34 under this section shall pay the contributions and interest
35 required pursuant to Section 21033.

36 (d) This section shall apply to a member only if the member
37 elects to receive credit while he or she is a state member, other
38 than a university member, and he or she is credited with at least
39 10 years of service as a state member, other than a university
40 member, on the date of the election.

1 (e) This section shall apply to a state member, other than a
2 university member, who leaves or has left employment with the
3 state, subsequently meets or has subsequently met the conditions
4 specified in subdivisions (a) and (b), and thereafter returns or
5 thereafter has returned to service as a state member, other than a
6 university member, is not entitled to receive the service credit
7 pursuant to Section 20991 or 20997.

8 SEC. 14. Section 21024 of the Government Code is amended
9 to read:

10 21024. (a) “Public service” with respect to a local member,
11 other than a school member, also means active service with the
12 Armed Forces or the Merchant Marine of the United States,
13 including time during any period of rehabilitation afforded by the
14 United States government other than a period of rehabilitation for
15 purely educational purposes, and for six months thereafter prior
16 to the member’s first employment by the employer under this
17 section in which he or she was a member.

18 (b) Any member electing to receive credit for that public
19 service shall make the contributions as specified in Sections
20 21050 and 21052.

21 (c) The public service under this section shall not include
22 military service in any period for which credit is otherwise given
23 under this article or Article 4 (commencing with Section 20990).

24 (d) This section shall apply to a member only if he or she
25 elects to receive credit while he or she is in state service in the
26 employment of one employer on or after the date of the
27 employer’s election to be subject to this section.

28 (e) This section does not apply to any contracting agency nor
29 to the employees of any contracting agency until the agency
30 elects to be subject to this section by amendment to its contract
31 made in the manner prescribed for approval of contracts or in the
32 case of contracts made after this section takes effect, by express
33 provision in the contract making the contracting agency subject
34 to this section. The amendments to this section made during the
35 second year of the 1999–2000 Regular Session shall apply to
36 contracts subject to this section on January 1, 2001. The
37 amendments to this section made during the first year of the
38 2005–06 Regular Session shall apply to contracts subject to this
39 section on January 1, 2006.

1 SEC. 15. Section 21027 of the Government Code is amended
2 to read:

3 21027. (a) "Public service" with respect to a local member
4 who retired pursuant to this part before the effective date of the
5 election of his or her employer to be subject to Section 21024
6 also means active service with the Armed Forces or the Merchant
7 Marine of the United States, including time during any period of
8 rehabilitation afforded by the United States government other
9 than a period of rehabilitation for purely educational purposes,
10 and for six months thereafter prior to the person's first
11 employment by the employer under this section in which he or
12 she was a member.

13 (b) Any retired person electing to receive credit for that public
14 service shall make the contributions as specified in Sections
15 21050 and 21052.

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

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

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

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

1 2005–06 Regular Session shall apply to contracts subject to this
2 section on January 1, 2006.

3 SEC. 16. Section 21029 of the Government Code is amended
4 to read:

5 21029. (a) “Public service” with respect to a state member or
6 a school member or with respect to a retired former state
7 employee or a retired former school employee, who retired on or
8 after December 31, 1981, also means active service, prior to
9 entering this system as a state member or as a school member, of
10 not less than one year in the Armed Forces of the United States,
11 or, active service, prior to entering this system as a state or
12 school member, of not less than one year in the Merchant Marine
13 of the United States prior to January 1, 1950. Public service
14 credit shall not be granted if the service described above
15 terminated with a discharge under dishonorable conditions. The
16 public service credit to be granted for that service shall be on the
17 basis of one year of credit for each year of credited state service.
18 A state member or a school member or a retired former state
19 employee or a retired former school employee electing to receive
20 a credit for that public service shall have been credited with at
21 least one year of state service on the date of election or the date
22 of retirement.

23 (b) An election by a state member or a school member with
24 respect to public service under this section may be made only
25 while the member is in state, university, or school employment,
26 and a retired former employee shall have retired immediately
27 following service as a state member or as a school member. The
28 retirement allowance of a retired former state employee or a
29 retired former school employee, who elects to receive public
30 service credit pursuant to this section shall be increased only with
31 respect to the allowance payable on and after the date of election.
32 For the purposes of this section, a member as described in
33 subdivision (d) of Section 20776, shall also mean a former state
34 employee or a former school employee, who retired on or after
35 December 31, 1981.

36 (c) A member or retired former employee who elects to
37 become subject to this section shall make the contributions as
38 specified in Sections 21050 and 21052.

39 (d) The board has no duty to locate or notify any eligible
40 former member who is currently retired or to provide the name or

1 address of any such retired person, agency, or entity for the
2 purpose of notifying those persons.

3 SEC. 17. Section 21029.5 is added to the Government Code,
4 to read:

5 21029.5. (a) “Public service” with respect to a state member
6 also means all periods of satisfactory service, as determined by
7 the Military Department, prior to entering into this system as a
8 state member, in the California National Guard, ~~the State~~
9 ~~Military Reserve, or the Naval Militia~~. Public service credit may
10 not be granted if the service described above terminated with a
11 discharge under dishonorable conditions.

12 (b) A member who elects to become subject to this section
13 shall make the contributions as specified in Sections 21050 and
14 21052.

15 SEC. 18. Section 21117 of the Government Code is amended
16 to read:

17 21117. A state miscellaneous member or industrial member,
18 other than a university member or a ~~military~~ *National Guard*
19 member, shall be partially retired for service upon his or her
20 written application to the board if he or she has elected to
21 participate in partial service retirement pursuant to Article 1.7
22 (commencing with Section 19996.30) of Chapter 7 of Part 2.6,
23 provided he or she is credited with (a) 20 years of state service
24 and is either in (1) the First Tier plan with an attained age of 50
25 years or (2) the Second Tier plan with an attained age of 55 years
26 or (b) the necessary years of service with the necessary attained
27 age for retirement under the First Tier or the Second Tier and the
28 sum of his or her age, when added to his or her service, equals or
29 exceeds 65 years.

30 SEC. 19. Section 31649.5 of the Government Code is
31 amended to read:

32 31649.5. (a) Notwithstanding Section 31649, any member
33 who resigned, or obtained a leave of absence, to enter and did
34 enter the armed forces of the United States on a voluntary or
35 involuntary basis and returned to county service within one year
36 after separation therefrom, under honorable conditions, shall
37 receive credit for service and prior service for all or any part of
38 his or her military service, if, before retirement from the county,
39 he or she contributes what he or she would have paid to the fund
40 based on his or her compensation earnable pursuant to Section

1 31461 at the time he or she resigned or received the leave of
2 absence, together with regular interest thereon.

3 (b) This section is not operative in any county until the board
4 of supervisors so orders.

5 SEC. 20. Section 215 of the Military and Veterans Code is
6 amended to read:

7 215. (a) For all purposes under this code, commissioned
8 officers, warrant officers and enlisted men and women of the
9 California National Guard, California Air National Guard and
10 California National Guard Reserve who have heretofore or
11 hereafter performed service in the United States Army, United
12 States Air Force, United States Navy, or any reserve component
13 thereof shall be entitled to credit for time so served as if that
14 service had been rendered in the state forces. Service in the state
15 forces shall include all full-time active duty and any satisfactory
16 part-time duty performed heretofore or hereafter either as an
17 enlisted man or woman, warrant officer or commissioned officer
18 pursuant to any prior or present section or sections or provisions
19 of this code. Federal law notwithstanding, in computing state
20 service for retirement with pay under this authority, full-time
21 active service and any satisfactory part-time duty or service with
22 the armed forces of the United States or any reserve component
23 thereof shall be considered.

24 (b) The Military Department shall determine what
25 constitutions “satisfactory part-time” duty or service for the
26 purposes of this section.

27 SEC. 21. Section 228 of the Military and Veterans Code is
28 amended to read:

29 228. (a) Any commissioned or warrant officer of the
30 California National Guard who has served 20 years in the active
31 service of the state may, on application, in the discretion of the
32 Governor, be retired. Service in the United States Army, United
33 States Air Force, United States Navy, or any reserve component
34 thereof is considered state service in computing length of state
35 service for the purposes of this section.

36 (b) Upon application made within one year of retirement, the
37 officer may, in the discretion of the Governor, be granted an
38 honorary advancement to the next grade above that held on the
39 date of application for retirement. The Adjutant General shall
40 adopt regulations governing the application procedure,

1 qualifications required, and rights and privileges in connection
2 with honorary post-retirement promotions under this subdivision.
3 If recalled to either state or federal active service, a person
4 honorarily promoted under this subdivision shall return to duty in
5 that grade specified by federal law or regulations applicable to
6 the person.

7 (c) Commissioned and warrant officers on active duty with the
8 office of the Adjutant General pursuant to Section 167 who are
9 not members of the Public Employees' Retirement System and
10 who have been on active duty with the office of the Adjutant
11 General for a total of 10 years shall, on application, be retired in
12 accordance with the federal law and regulations which on the
13 date of application govern the retirement of commissioned and
14 warrant officers of the reserve components of the Army of the
15 United States on extended active duty. Retirement from state
16 active duty with the office of the Adjutant General does not
17 prohibit a person from active service in the California National
18 Guard. In these cases, the length of service shall be computed as
19 provided in this section and Section 215.

20 SEC. 22. Section 256 of the Military and Veterans Code is
21 amended to read:

22 256. (a) Any enlisted member of the California National
23 Guard who has served 20 years in the active service of the state
24 may, on application, in the discretion of the Governor, be retired.
25 Service in the United States Army, United States Air Force,
26 United States Navy, or any reserve component thereof shall be
27 considered as state service in computing length of state service
28 for the purposes of this section.

29 (b) Upon application made within one year of retirement, the
30 person may, in the discretion of the Governor, be granted an
31 honorary advancement to the next rank above that held on the
32 date of application for retirement. The Adjutant General shall
33 adopt regulations governing the application procedure,
34 qualifications required, and rights and privileges in connection
35 with honorary post-retirement promotions. If recalled to either
36 state or federal active service, a person honorarily promoted
37 under this subdivision shall return to duty in that rank specified
38 by federal law or regulations applicable to the person.

39 (c) An enlisted member on active duty with the office of the
40 Adjutant General pursuant to Section 167 who is not a member

1 of the Public Employees' Retirement System and who has been
2 on active duty with the office of the Adjutant General for a total
3 of 10 years shall, on application, be retired in accordance with
4 the federal law and regulations which on the date of application
5 govern the retirement of enlisted members of the reserve
6 components of the Army of the United States on extended active
7 duty. In these cases, the length of service shall be computed as
8 provided in this section and Section 215.

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