

Assembly Bill No. 1380

Passed the Assembly August 19, 2013

Chief Clerk of the Assembly

Passed the Senate July 1, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 31452, 31452.5, 31452.6, 31454, 31455, 31461.6, 31462, 31462.1, 31462.2, 31479.1, 31482.5, 31490.6, 31499.11, 31551, 31581.1, 31581.2, 31625.2, 31625.3, 31630, 31639.85, 31658, 31662.2, 31663.25, 31663.26, 31664.5, 31670, 31671, 31672, 31672.1, 31672.2, 31678.2, 31678.3, 31678.31, 31680, 31680.1, 31680.2, 31680.3, 31680.6, 31705, 31835, 31836, 31839, 31873, 31873.1, 31874.5, and 31899 of, and to add Sections 31462.05, 31620.5, 31672.3, and 31685.01 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1380, Committee on Public Employees, Retirement and Social Security. County employees' retirement.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, to modify its pension plan or plans to comply with the act and, among other provisions, generally prohibits a public employer that offers a defined benefit plan from offering new employees defined benefit retirement formulas other than those established by the act, which, in comparison to existing formulas, generally provide reduced benefits and later ages for retirement. PEPRA prohibits the purchase of nonqualified service credit, as defined, unless the application to purchase the credit is received by the retirement system prior to January 1, 2013, and subsequently approved. PEPRA prohibits an employer from paying a new member's contribution for the normal cost of benefits in a defined plan and prohibits an enhancement of a public employee's retirement benefit adopted on or after January 1, 2013, from applying to service previously performed.

The County Employees Retirement Law of 1937 (CERL) authorizes counties and districts to establish retirement systems in order to provide pension benefits to their employees and their beneficiaries and prescribes the rights, benefits, and duties of members in this regard. Certain parts of CERL are applicable only in specified counties or upon adoption by the board of supervisors of a county. CERL provides for a defined retirement benefit based

upon credited service, final compensation, and age at retirement subject to specified formulas relating to membership classification. The law defines compensation earnable and final compensation for these purposes. The law permits credit for service as an elective or appointed county official that is uncompensated. CERL permits an employer to pay a member's contribution for certain benefits, as specified, and permits the retirement of certain safety members, regardless of age, if they meet specified service requirements. CERL authorizes an employer to permit active members to purchase additional nonqualified service credit and permits a new formula for calculation of retirement benefits to be applied to service already performed. CERL further permits a county or district to provide a supplemental defined benefit plan for the purpose of providing benefits in excess of specified federal standards.

This bill would amend various provisions of CERL to coordinate and subordinate that law with PEPRA. Generally, the bill would specify that certain provisions of CERL do not apply to members who are currently subject to PEPRA by virtue of being first employed on or after January 1, 2013. The bill would provide that provisions allowing a new formula for calculation of retirement benefits to be applied to service already performed are inoperative as of January 1, 2013, and would prohibit the purchase of nonqualified service credit, as specified. The bill would except retirement systems established under CERL from specified provisions of PEPRA concerning the calculation and adjustment of contribution rates.

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

SECTION 1. Section 31452 of the Government Code is amended to read:

31452. The right of a person to a pension, annuity, retirement allowance, return of contributions, the pension, annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under this chapter, the money in the fund created or continued under this chapter or the California Public Employees' Pension Reform Act of 2013, and any property purchased for investment purposes pursuant to this chapter, are exempt from taxation, including any inheritance tax, whether state,

county, municipal, or district. They are not subject to execution or any other process of court whatsoever except to the extent permitted by Section 31603 of this code and Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this chapter.

SEC. 2. Section 31452.5 of the Government Code is amended to read:

31452.5. (a) The board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter or the California Public Employees' Pension Reform Act of 2013, authorizing the treasurer or other entity authorized by the board to deduct a specified amount from the retirement allowance or benefit payable to any retired member or beneficiary of a retired member for any of the following purposes:

(1) Paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer.

(2) Paying premiums for a prepaid group medical or hospital service plan.

(3) Paying premiums for a vision care program or dental plan, approved by the board, for the benefit of the retired member or his or her dependents.

(4) Paying premiums on national service life insurance or United States government converted insurance.

(5) Payment for the purchase of shares in or the payment of money to any regularly chartered credit union.

(6) Payment to a charitable organization or a federally chartered veterans' organization that is approved by the board.

(7) Payments to a recognized retiree organization.

(8) Payment for the purchase of United States savings bonds.

(9) The payment of personal income taxes to the government of the United States or the State of California.

(10) Payment for any retiree benefit programs available through the recognized retiree organization. The board may require that this payment be to a single party designated by the recognized retiree organization, either to itself or to a third-party administrator.

(b) Each month the order shall be drawn in favor of the insurer, institution, credit union, organization, or government named in

the written authorization for an amount equal to the deductions authorized in subdivision (a) and made during the month.

(c) The board may charge a reasonable fee for the making of the deductions and payments.

SEC. 3. Section 31452.6 of the Government Code is amended to read:

31452.6. (a) The board shall comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter or the California Public Employees' Pension Reform Act of 2013, authorizing the treasurer or other entity authorized by the board to deliver the monthly warrant, check, or electronic fund transfer, for the retirement allowance or benefit to any specified bank, savings and loan institution, or credit union to be credited to the account of the retired member or survivor of a deceased retired member. That delivery is full discharge of the liability of the board to pay a monthly retirement allowance or benefit to the retired member or survivor of a deceased retired member.

(b) Any payments directly deposited by electronic fund transfer following the date of death of a person who was entitled to receive a retirement allowance or benefit under this chapter or the California Public Employees' Pension Reform Act of 2013 shall be refunded to the retirement system.

(c) In order to obtain information from a financial institution following the death of a retired member or the beneficiary of a retired member, as provided in subdivision (o) of Section 7480, the board may certify in writing to the financial institution that the retired member or the beneficiary of a retired member has died and that transfers to the account of the retired member or beneficiary of a retired member at the financial institution from the retirement system occurred after the date of death of the retired member or the beneficiary of a retired member.

SEC. 4. Section 31454 of the Government Code is amended to read:

31454. (a) The board of supervisors shall, not later than 90 days after the beginning of the immediately succeeding fiscal year, adjust the rates of interest, the rates of contributions of members, and county and district appropriations in accordance with the recommendations of the board, but shall not fix them in amounts

that reduce the individual benefits provided in this chapter or the California Public Employees' Pension Reform Act of 2013.

(b) (1) The governing body of a district within the county system that is not governed by the board of supervisors shall, not later than 90 days after the beginning of the immediately succeeding fiscal year, adjust the rates of contributions of district members and in district appropriations in accordance with the recommendations of the board, but shall not fix them in amounts that reduce the individual benefits provided in this chapter or the California Public Employees' Pension Reform Act of 2013.

(2) This subdivision shall not be operative in any county until the board of supervisors, by resolution adopted by majority vote, makes the provision applicable in that county.

SEC. 5. Section 31455 of the Government Code is amended to read:

31455. Unless the context otherwise requires, or unless superseded by any provision of the California Public Employees' Pension Reform Act of 2013, the definitions and general provisions contained in this article govern the construction of this chapter.

SEC. 6. Section 31461.6 of the Government Code is amended to read:

31461.6. (a) "Compensation earnable" shall not include overtime premium pay other than premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code.

(b) This section shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 7. Section 31462 of the Government Code is amended to read:

31462. (a) "Final compensation" means the average annual compensation earnable by a member during any three years elected by a member at or before the time he or she files an application for retirement, or, if he or she fails to elect, during the three years immediately preceding his or her retirement. If a member has less than three years of service, his or her final compensation shall be determined by dividing his or her total compensation by the number of months of service credited to him or her and multiplying by 12.

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

SEC. 8. Section 31462.05 is added to the Government Code, to read:

31462.05. For a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system, "final compensation" as defined in Section 7522.32 shall apply. If a member has less than three years of service, that member's final compensation shall be determined by dividing the total compensation by the number of months of service credited to the member and multiplying by 12.

SEC. 9. Section 31462.1 of the Government Code is amended to read:

31462.1. (a) (1) "Final compensation" means the average annual compensation earnable by a member during any year elected by a member at or before the time he or she files an application for retirement, or, if he or she fails to elect, during the year immediately preceding his or her retirement.

(2) This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in such county.

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

SEC. 10. Section 31462.2 of the Government Code is amended to read:

31462.2. (a) "Final compensation" for members whose service is on a tenure that is temporary, seasonal, intermittent, or for part time only means one-third of the total compensation earned for that period of time during which the member rendered the equivalent of three years of full-time service.

(b) The member may elect at or before the time he or she files an application for retirement the period of time during which he or she has earned three full years of credit upon which final compensation shall be calculated. If he or she does not so elect,

such period of time immediately preceding his or her retirement shall be used.

(c) This section applies to a member meeting the conditions specified in subdivision (a), whose service is described in subdivision (a), and who is subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 11. Section 31479.1 of the Government Code is amended to read:

31479.1. (a) (1) Notwithstanding Section 31479, an elective or appointive county official may receive credit for service rendered as a city council member even though that service was not compensated.

(2) This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

(b) This section shall not apply to service performed as an elective or appointive officer that is subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 12. Section 31482.5 of the Government Code is amended to read:

31482.5. (a) Notwithstanding any provisions to the contrary in Section 20894, this section shall apply to all participants in retirement systems governed by this chapter.

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

(c) Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan that meets the requirements of Section 457 of Title 26 of the United States Code, a tax-deferred retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code, or a defined contribution plan and trust that meets the requirements of Section 401(a), 403(b), or 415(m) of Title 26 of the United States Code.

(d) Nothing in this section shall preclude concurrent participation and credit for service in the defined benefit plan provided under this chapter and in a supplemental defined benefit plan maintained by the employer that meets the requirements of Section 401(a) of Title 26 of the United States Code, provided all of the following conditions exist:

(1) The defined benefit plan provided under this chapter has been designated as the employer's primary plan for the person and the supplemental defined benefit plan is adopted by the governing body of the employer.

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

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

(e) If any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, that provision shall not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system.

SEC. 13. Section 31490.6 of the Government Code is amended to read:

31490.6. (a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service retirement or for purposes of establishing eligibility for benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) A member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of

commencement of purchase, in the opinion of the board and the actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for additional retirement credit that he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement or, if applicable, prior to the date provided in Section 31485.8. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative until the board of supervisors, by resolution adopted by majority vote, makes this section operative in the county.

(h) Pursuant to Section 7522.46, this section shall apply only to an application to purchase additional retirement credit that was received by the retirement system prior to January 1, 2013, that is subsequently approved by the system.

SEC. 14. Section 31499.11 of the Government Code is amended to read:

31499.11. Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) “Board” means the board of retirement.

(b) “Employer” means the county or district or agency whose employees are members of the retirement system of the county.

(c) “Federal system” means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) “Final compensation” means the average annual compensation earnable by a general member during any three years, whether or not consecutive, for a person who became a general member of the plan prior to January 1, 2013, or, for a person who became a general member of the plan on or after January 1, 2013, final compensation means the average annual compensation earnable by a general member during any 36 consecutive months, to be elected by the member at or before the time an application for retirement is filed, or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former

member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) “Member” or “general member” means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety member.

(f) “Primary insurance amount” means the monthly retirement benefit payable under the federal system at the age of 65.

(g) “Service” means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

(h) Except as otherwise provided in this article, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

(i) Unless otherwise provided, service shall not include military service or public service other than service with the employer.

SEC. 15. Section 31551 of the Government Code is amended to read:

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

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

SEC. 16. Section 31581.1 of the Government Code is amended to read:

31581.1. (a) The board of supervisors may elect to pay up to one-half of the contributions normally required of members for

any period of time designated in the resolution providing for such payment. The payments shall not become part of the accumulated contributions of the member. These payments may be made with respect to employees in one or more bargaining units irrespective of whether they are made with respect to other employees.

(b) This section shall not apply to members who are subject to Section 7522.30.

SEC. 17. Section 31581.2 of the Government Code is amended to read:

31581.2. (a) The board of supervisors or the governing body of the district may agree to pay any portion of the contributions required to be paid by a member. All payments shall be in lieu of wages and shall be reported simply as normal contributions and shall be credited to member accounts.

(b) The enactment of a resolution pursuant to this section shall not create vested rights in any member. The board of supervisors or the governing body of the district may amend or repeal the resolution at any time, subject to the provisions of Sections 3504 and 3505, or any similar rule or regulation of the county or district.

(c) This section shall not apply to members who are subject to Section 7522.30.

SEC. 18. Section 31620.5 is added to the Government Code, to read:

31620.5. The normal rates of contribution of general and safety members subject to the California Public Employees' Pension Reform Act of 2013 shall be determined pursuant to Section 7522.30 subject to the following exceptions:

(a) The board may, but is not required to, apply the provisions of subdivision (c) of Section 7522.30 that require the initial contribution rate to be rounded to the nearest quarter of 1 percent.

(b) Subdivision (d) of Section 7522.30 shall not apply to the contribution rates of members of retirement systems established pursuant to this chapter.

SEC. 19. Section 31625.2 of the Government Code is amended to read:

31625.2. (a) Notwithstanding any other provisions of this chapter, contributions shall not be deducted from the salary of any member having credit for 30 years' service providing the member was a member on March 7, 1973, and remained in membership continuously until credited with 30 years' service.

(b) Notwithstanding subdivision (a), contributions shall not be deducted from the salary of any member having credit for 30 years' of continuous service in the retirement association of a county of the seventh class as established by Sections 28020 and 28028. This subdivision shall not apply to a member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013.

SEC. 20. Section 31625.3 of the Government Code is amended to read:

31625.3. (a) Notwithstanding any other provision of this chapter, contributions shall not be deducted from the salary of any member who was a member before or after March 7, 1973, of the retirement association, another county retirement system established under this chapter, or the Public Employees' Retirement System, and has total reciprocal service credit of not less than 30 years in the retirement association, or in the retirement association and another county retirement system established under this chapter, or the Public Employees' Retirement System, or a combination thereof.

(b) This section shall not apply in any county unless and until it is adopted by a majority vote of the board of supervisors.

(c) This section shall not apply to members who are subject to Section 7522.30.

SEC. 21. Section 31630 of the Government Code is amended to read:

31630. (a) Notwithstanding any other provisions in this chapter, the South Coast Air Quality Management District and in any county which has adopted Section 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, 31676.15, or 31751, the board of supervisors or district board, as the case may be, may agree to pay any portion of the members' normal contributions to the system. All the contributions paid by the county or district, as the case may be, shall remain its contributions, and no right therein shall accrue to any employee prior to the employee's election to take a regular, deferred, or disability retirement.

(b) Any contributions paid by the board of supervisors or the district board on behalf of the members shall be as determined by upon actuarial advice, and approved by the board of retirement.

(c) This section shall not apply to members who are subject to Section 7522.30.

SEC. 22. Section 31639.85 of the Government Code is amended to read:

31639.85. (a) Notwithstanding any other provisions in this chapter, in any county which has adopted Section 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, or 31676.15 the board of supervisors may agree to pay any portion of the safety members' normal contributions to the system. All contributions paid by the county shall remain county contributions, and no right therein shall accrue to any employee prior to the employee's election to take a regular, deferred, or disability retirement.

(b) Any contributions paid by the board of supervisors on behalf of the safety members shall be as determined upon actuarial advice, and approved by the board of retirement.

(c) This section shall not apply to members who are subject to Section 7522.30.

SEC. 23. Section 31658 of the Government Code is amended to read:

31658. (a) An active member may elect, by written notice filed with the board, to make contributions pursuant to this section and to receive up to five years of service credit in the retirement system for additional retirement credit, if the member has completed at least five years of credited service with that retirement system.

(b) As used in this section, "additional retirement credit" means time that does not otherwise qualify as county service, public service, military service, medical leave of absence, or any other time recognized for service credit by the retirement system.

(c) Notwithstanding any other provision of this chapter, service credit for additional retirement credit may not be counted to meet the minimum qualifications for service or disability retirement or for purposes of establishing eligibility for any benefits based on 30 years of service, additional ad hoc cost-of-living benefits based on service credit, health care benefits, or any other benefits based upon service credit.

(d) Any member who elects to make contributions and receive service credit for additional retirement credit shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed 10 years, an amount that, at the time of commencement of purchase, in the opinion of the board and the

actuary, is sufficient to not place any additional financial burden upon the retirement system.

(e) No member may receive service credit under this section for any additional retirement credit for which he or she has not completed payment pursuant to subdivision (d) before the effective date of his or her retirement. Subject to the limitations of United States Internal Revenue Service regulations, a member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement.

(f) Any sums paid by a member pursuant to this section shall be considered to be and administered as contributions by the member.

(g) This section is not operative in any county until the board of supervisors, by resolution adopted by majority vote, makes this section applicable in the county.

(h) Pursuant to Section 7522.46, this section shall apply only to an application to purchase additional retirement credit that was received by the retirement system prior to January 1, 2013, that is subsequently approved by the system.

SEC. 24. Section 31662.2 of the Government Code is amended to read:

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

SEC. 25. Section 31663.25 of the Government Code is amended to read:

31663.25. (a) Except as provided in Section 31663.26, a safety member who has reached the applicable compulsory age of retirement, if any, or a safety member who has completed 10 years of continuous service and who has reached the age of 50, or a safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which the member desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

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

SEC. 26. Section 31663.26 of the Government Code is amended to read:

31663.26. (a) Notwithstanding Section 31663.25, a safety member who has reached the applicable compulsory age of retirement, if any, or a safety member who is a full-time employee, has completed 10 years of service, has reached the age of 50, and has no service break which exceeds 12 months, or a safety member who has completed 20 years of service regardless of age, may be retired upon filing with the board a written application setting forth the date upon which the member desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

(b) This section shall not be operative in any county until such time as the board of supervisors shall, by ordinance, make this section applicable in the county.

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

SEC. 27. Section 31664.5 of the Government Code is amended to read:

31664.5. (a) Notwithstanding any other provisions of this chapter, a safety member may exercise the option of retiring upon completion of 25 years of service, and if such option is exercised, the safety member shall receive a retirement allowance equal to no less than 30 percent of his or her final compensation.

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

SEC. 28. Section 31670 of the Government Code is amended to read:

31670. Retirement of a member who has met the requirements for age and service shall be made by the board pursuant to this

article or pursuant to the California Public Employees' Pension Reform Act of 2013, whichever is applicable.

SEC. 29. Section 31671 of the Government Code is amended to read:

31671. (a) The amount of compensation that is taken into account in computing benefits payable to any person who first becomes a member of the retirement system on or after July 1, 1996, shall not exceed the limitations in Section 401(a)(17) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

(b) The compensation limitations specified in Section 7522.10 shall also apply to a member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system.

SEC. 30. Section 31672 of the Government Code is amended to read:

31672. (a) A member who has reached 70 years of age or a member who has completed 10 years of service and who has reached 55 years of age, or a member who has completed 30 years of service regardless of age, may be retired upon filing with the board a written application, setting forth the date upon which he or she desires his or her retirement to become effective not earlier than the date the application is filed with the board and not more than 60 days after the date of filing the application. Fifty-five years of age in the preceding sentence may be reduced to 50 years of age in a county by resolution of the board of supervisors.

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

SEC. 31. Section 31672.1 of the Government Code is amended to read:

31672.1. (a) An employee who has reached the age of 55 years, has held a position in the county service for 10 years, and on the date of retirement is employed in a temporary, seasonal, intermittent, or part-time position in which the employee has received credit for five full years of service, may be retired upon filing with the board a written application, setting forth the date upon which the employee desires his or her retirement to become effective which shall not be more than 60 days after the date of filing the application. The age of 55 in the preceding sentence may be reduced to age 50 in any county by resolution of the board of supervisors if such reduction has also been made under Section 31672.

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

SEC. 32. Section 31672.2 of the Government Code is amended to read:

31672.2. (a) An elective officer who filed a declaration with the board to become a member, pursuant to Section 31553, who has served two complete consecutive terms in an elective office, and who has reached the minimum age for retirement provided in Section 31672, may be retired upon filing with the board a written application setting forth the date upon which he or she desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

(b) This section shall become operative only in any county of the 16th class, as defined by Section 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, and on the first day of the calendar month after the board of supervisors adopts a resolution making it operative in the county.

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

SEC. 33. Section 31672.3 is added to the Government Code, to read:

31672.3. A member of a county retirement system who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) for all or a portion of the member's membership in the county retirement system who has completed five years of service and has reached the minimum retirement age applicable to that member under the act, or has reached 70 years of age, may be retired upon filing with the board a written application, setting forth the date upon which the member desires his or her retirement to become effective which shall be not more than 60 days after the date of filing the application.

SEC. 34. Section 31678.2 of the Government Code is amended to read:

31678.2. (a) Notwithstanding Section 31678 or any other provision of this chapter, a board of supervisors or a governing body of a district may, by resolution adopted by majority vote, make any section of this chapter prescribing a formula for calculation of retirement benefits applicable to service credit earned on and after the date specified in the resolution, which date may be earlier than the date the resolution is adopted.

(b) A resolution adopted pursuant to this section may, if approved in a memorandum of understanding executed by the board of supervisors and the employee representatives, require members to pay all or part of the contributions by a member or employer, or both, that would have been required if the section or sections specified in subdivision (a), as adopted by the board or governing body, had been in effect during the period of time designated in the resolution. The payment by a member shall become part of the accumulated contributions of the member.

(c) This section shall only be applicable to members who retire on or after the effective date of the resolution described in subdivision (a).

(d) On or after January 1, 2013, this section is inoperative pursuant to Section 7522.44.

SEC. 35. Section 31678.3 of the Government Code is amended to read:

31678.3. (a) Notwithstanding any other provision of this chapter, a resolution adopted by a board of supervisors to make any formula for calculation of retirement benefits described in this section applicable to the employees of the county does not apply

to make that formula applicable to the employees of any district within the county. The governing body of a district may elect, by resolution adopted by majority vote, to make any formula for calculation of retirement benefits described in this section applicable to the employees of the district irrespective of whether the board of supervisors has made that election with respect to employees of the county.

(b) Notwithstanding any other provision of this chapter, the board of supervisors or the governing body of a district may, by resolution adopted by majority vote, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 2), do any or all of the following:

(1) Apply Section 31621.8, 31676.17, 31676.18, or 31676.19 for the calculation of retirement benefits for general members to the employees in a bargaining unit comprised of general members.

(2) Apply Section 31664.1 for the calculation of retirement benefits for safety members to the employees in a bargaining unit comprised of safety members.

(3) Apply Section 31664 for the calculation of retirement benefits for safety members to the employees of the Probation Services Unit and the Probation Supervisory Management Unit.

(c) Any nonrepresented employees within similar job classifications as employees in a bargaining unit described in subdivision (b) or supervisors and managers thereof shall be subject to the same formula for the calculation of retirement benefits applicable to the employees in that bargaining unit.

(d) A resolution adopted pursuant to subdivision (b) may require members to pay a portion of the contributions attributable to past service liability, that would have been required if the benefits specified in the resolution, as adopted by the board of supervisors or the governing body of the district, had been in effect during the period of time designated in the resolution. Any payments required of represented employees shall first be approved in a memorandum of understanding made under the Meyers-Milias-Brown Act and executed by the board of supervisors or the governing body of the district and the employee representatives. The contributions paid by a member pursuant to this subdivision shall become part of the accumulated contributions of the member.

(e) This section shall only be applicable to members who retire on or after the effective date of the resolution described in subdivision (b).

(f) The board of supervisors or the governing body of a district may not unilaterally implement a retirement formula for any of its bargaining units.

(g) This section shall apply only in Orange County.

(h) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

SEC. 36. Section 31678.31 of the Government Code is amended to read:

31678.31. (a) Notwithstanding any other provision of this chapter, the board of supervisors or the governing body of a district within the county may, by resolution adopted by majority vote, do the following:

(1) Require an employee hired after approval of the resolution, to elect in writing, either the pension calculation stated in Section 31676.19 or the pension calculation stated in Section 31676.01. The election shall be made within 45 calendar days of beginning employment with the county or the district. If an employee does not elect the pension calculation stated in Section 31676.19 within 45 days of beginning employment, the employee shall be deemed to have elected the pension calculation stated in Section 31676.01. An employee shall not be permitted to rescind his or her election unless the board of supervisors or the governing body of a district, through the adoption of a subsequent ordinance or resolution by majority vote, makes a provision permitting the employee to rescind the election applicable to the county or district.

(2) Require a current employee of the county or district covered by the pension calculation stated in Section 31676.19, hired before approval of the resolution, within 180 calendar days of approval of the resolution to make, at the employee's option, a one-time written election to terminate the application of the pension calculation stated in Section 31676.19 for future service and elect instead the pension calculation stated in Section 31676.01 for future service. This election shall be signed by the employee. Prior to signing an election, a current employee who chooses to terminate the pension calculation stated in Section 31676.19 and elects instead the pension calculation stated in Section 31676.01, shall

be provided by the county or district governing body with a written explanation of the effect and impact of the termination. A current employee who chooses to terminate the pension calculation stated in Section 31676.19 shall be required to sign an affidavit stating that the employee has been fully informed regarding the effect of the termination and understands that the termination is irrevocable. The affidavit shall also state that the employee has chosen termination of his or her own free will and was not coerced into termination by the employer or any other person. An employee shall not be permitted to rescind his or her election unless the board of supervisors or the governing body of a district, through the adoption of a subsequent ordinance or resolution by majority vote, makes a provision permitting the employee to rescind the election applicable to the county or district.

(3) Require a current employee of the county or district, hired before approval of the resolution, but not covered by the pension calculation stated in Section 31676.19, who after approval of the resolution becomes eligible for the pension calculation stated in Section 31676.19, to make a one-time written election between the pension calculation stated in Section 31676.19 for future service and the pension calculation stated in Section 31676.01 for future service. The election shall be made within 45 calendar days of becoming eligible for the pension calculation stated in Section 31676.19. The election shall be signed by the employee. Prior to signing the election, an employee who does not elect the pension calculation stated in Section 31676.19 and elects instead the pension calculation stated in Section 31676.01 shall be provided by the county or the district governing body with a written explanation of the effect and impact of the election. An employee who does not choose the pension calculation stated in Section 31676.19 shall be required to sign an affidavit stating that the employee has been fully informed regarding the effect of the election and understands that the election is irrevocable. The affidavit shall also state that the employee has chosen the election of his or her own free will and was not coerced into the election by the employer or any other person. An employee shall not be permitted to rescind his or her election unless the board of supervisors or the governing body of a district, through the adoption of a subsequent ordinance or resolution by majority vote, makes a provision permitting the employee to rescind the election

applicable to the county or district. Failure to make an election within 45 calendar days shall be considered cause for termination of employment until the employee described in this paragraph has made the required election.

(b) The retirement allowance for service rendered prior to the effective date of the election under paragraph (2) or (3) of subdivision (a) for an employee covered by any other pension calculation shall be calculated under the employee's prior pension calculation. Any employee who has made an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions pursuant to the election applicable at the date of retirement.

(c) (1) An election for the pension calculation stated in Section 31676.01 by any employee hired before approval of the resolution shall include the signature of the designated beneficiary of the employee's pension acknowledging the election, or shall include a written declaration of one or more of the following as may be applicable:

(A) The beneficiary has no identifiable community property interest in the benefit.

(B) The employee does not know, and has taken all reasonable steps to determine, the whereabouts of the beneficiary.

(C) The beneficiary has been advised of the election and has refused to sign the written acknowledgment.

(D) The beneficiary is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(2) The purpose of this subdivision is to notify the beneficiary, including the employee's spouse or domestic partner, of an election made by the employee that may affect the entitlement of the beneficiary. In addition to the foregoing, if the designated beneficiary of an employee's pension is a spouse or domestic partner of the employee, the election shall also evidence agreement to the election by the spouse or domestic partner.

(3) A person who knowingly provides false information in the written declaration submitted pursuant to paragraph (1) shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000), in addition to any civil remedies available to the board. An action

to impose a civil penalty pursuant to this paragraph may be brought by any public prosecutor in the name of the people of the state.

(d) In the event the employee elects the pension calculation stated in Section 31676.01, the employee shall be eligible to receive a contribution from the county or district based on the employee's contribution to a defined contribution program.

(e) In addition to employees represented by bargaining units, any other employees not represented by a bargaining unit, as well as supervisors, managers, and executives, may be subject to subdivision (a) pursuant to the resolution described in subdivision (a).

(f) This section shall apply only to members who retire on or after the effective date of the resolution described in subdivision (a).

(g) This section shall not apply to safety members.

(h) A resolution adopted by the board of supervisors under subdivision (a) shall not apply to the employees of any district within the county. The governing body of a district may elect, by resolution adopted by majority vote, to make this section applicable to the employees of the district irrespective of whether the board of supervisors has made that election applicable to employees in the county.

(i) A resolution adopted pursuant to this section may require any member that elects or is deemed to have elected the pension calculation stated in Section 31676.01 to pay additional member contributions beyond those member contributions required under Section 31621. These additional contributions shall not result in an additional benefit to the member. However, the additional contributions paid by a member pursuant to the authority granted by this subdivision shall become part of the accumulated contributions of the member for the following purposes only:

(1) Funding the annuity portion of the member's retirement allowance.

(2) Withdrawal of contributions by the member upon the member's withdrawal from, and termination of membership in, the retirement system.

(j) Any person employed subsequent to the effective date of a resolution adopted under subdivision (a) who would otherwise qualify as a member shall not become a member until he or she certifies his or her election, or otherwise as described above has

been deemed to have elected, to be covered by the pension calculation stated in Section 31676.01 or the pension calculation stated in Section 31676.19. Once the election is made or is deemed to have been made, the employee will become a member retroactive to the date of hire. Any employee who subsequently otherwise becomes eligible for the pension calculation stated in Section 31676.19 subsequent to the effective date of a resolution adopted under subdivision (a) shall continue to be covered by any immediately preceding retirement plan to which he or she was entitled from the county or district until he or she certifies his or her election to be covered by the pension calculation stated in Section 31676.01 or the pension calculation stated in Section 31676.19.

(k) In the event that the final day to make an election or perform an act described in this section falls on a weekend or on a county or district holiday, a subsequent election or act shall be timely if made or performed on the immediately following regular business day of the county or district.

(l) This section shall apply only in Orange County.

(m) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

SEC. 37. Section 31680 of the Government Code is amended to read:

31680. (a) A member retired for service or disability shall not be paid for any service rendered by him or her to the county or district after the date of his or her retirement, except:

(1) As specifically provided in this chapter.

(2) Pursuant to Section 31733.

(3) The county or district may pay and the retired member may receive:

(A) Rewards for ideas or suggestions made by the retired member for the improvement of county or district activities.

(B) Compensation for his or her services on the board.

(4) If the member is subsequently elected to county office after retirement.

(b) As herein used the term "services rendered" shall refer to service rendered as an officer or employee of the county or district and shall not refer to services performed by a retired officer or employee as an independent contractor engaged by a county or

district under a bona fide contract for services within the purview of Section 31000 of this code.

(c) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

SEC. 38. Section 31680.1 of the Government Code is amended to read:

31680.1. (a) Any person who has retired under this chapter may, without reinstatement from retirement or loss or interruption of benefits under this chapter, serve as a juror, election officer, field deputy for registration of voters, member of the board of the association or temporarily as a judge when assigned by the Chairman of the Judicial Council and receive any fees payable for that service.

(b) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

SEC. 39. Section 31680.2 of the Government Code is amended to read:

31680.2. (a) Any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, for not to exceed 90 working days or 720 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

(b) (1) This section shall not apply to any retired person who is otherwise eligible for employment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment

subject to this section for a period of 12 months following the last day of employment.

(3) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail, except that the limit on postretirement employment provided in subdivision (a) to the greater of 90 working days or 720 hours shall remain effective.

SEC. 40. Section 31680.3 of the Government Code is amended to read:

31680.3. (a) Notwithstanding Section 31680.2, any member who has been covered under the provisions of Section 31751 and has retired may be reemployed in a position requiring special skills or knowledge, as determined by the county or district employing the member, for not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend the person's retirement allowance, and no deductions shall be made from the person's salary as contributions to this system.

(b) (1) This section shall not apply to any retired member who is otherwise eligible for reemployment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(c) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

SEC. 41. Section 31680.6 of the Government Code is amended to read:

31680.6. (a) Notwithstanding Section 31680.2, any county subject to Section 31680.2 may, upon adoption of a resolution by a majority vote by the board of supervisors, extend the period of

time provided for in Section 31680.2 for which a person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

(b) (1) This section shall not apply to any retired person who is otherwise eligible for employment under this section if, during the 12-month period prior to an appointment described in this section, that retired person receives unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(c) Beginning January 1, 2013, if any provision of this section conflicts with the California Public Employees' Pension Reform Act of 2013, the provisions of that act shall prevail.

SEC. 42. Section 31685.01 is added to the Government Code, to read:

31685.01. Benefits enumerated in this article shall be determined in accordance with the provisions of this chapter or the California Public Employees' Pension Reform Act of 2013, whichever is applicable.

SEC. 43. Section 31705 of the Government Code is amended to read:

31705. The retirement allowance shall be calculated according to the provisions of this chapter, or the California Public Employees' Pension Reform Act of 2013, whichever is applicable, as they exist at the time of the commencement of the retirement allowance.

SEC. 44. Section 31835 of the Government Code is amended to read:

31835. The average compensation during any period of service as a member of the Public Employees' Retirement System, a member of the Judges' Retirement System or Judges' Retirement System II, a member of a retirement system established under this chapter in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, shall be considered compensation earnable or pensionable compensation pursuant to Section 7522.34, whichever is applicable, by a member for purposes of computing final compensation for that member provided:

(a) The period intervening between active memberships in the respective systems does not exceed 90 days, or 6 months if Section 31840.4 applies. That period shall not include any time during which the member was prohibited by law from becoming a member of the system of another county.

Notwithstanding anything in this chapter to the contrary, the 90-day or 6-month restriction referred to in this section or any other provision of this chapter affecting deferred retirement shall not be applicable to any members who left county or district service prior to October 1, 1949, and subsequently redeposited.

(b) He or she retires concurrently under both systems and is credited with the period of service under that other system at the time of retirement.

The provisions of this section shall be applicable to all members and beneficiaries of the system.

SEC. 45. Section 31836 of the Government Code is amended to read:

31836. "Service," solely for purposes of qualification for payment of benefits and retirement allowances, shall also include service as an employee of the state or a contracting agency under the Public Employees' Retirement System or of another county having a retirement system established under this chapter, or as a member of the State Teachers' Retirement System, or as a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, if the compensation for such service constitutes compensation earnable or pensionable compensation pursuant to Section 7522.34,

whichever is applicable, by a member under Section 31835 of this part.

No credit shall be granted in this retirement system for service for which the member has received credit in another retirement system or for which he or she is presently receiving a retirement allowance from another retirement system.

SEC. 46. Section 31839 of the Government Code is amended to read:

31839. Upon the death before retirement of a member, while in service as a member of the Public Employees' Retirement System or a retirement system established pursuant to this chapter in another county, who has made an election pursuant to Section 31700 and 31832, the death benefit provided in Section 31781 payable by the system from which he or she elected deferred retirement shall consist of:

(a) When death is not the result of a disease or injury arising out of and in the course of employment, the amount of such death benefit shall not exceed an amount which when added to the death benefit payable for the member under such other system will equal the total of the accumulated contributions to both systems plus 50 percent of the annual compensation earnable or pensionable compensation pursuant to Section 7522.34, whichever is applicable, by the deceased during the 12 months immediately preceding his or her death.

(b) When death is the result of disease or injury arising out of and in the course of his or her employment as a member of such other system, such death benefit shall consist solely of the member's accumulated contributions.

SEC. 47. Section 31873 of the Government Code is amended to read:

31873. (a) Any increases in contributions shall be shared equally between the county or district and the contributing members, with the individual member's contributions based upon the member's age at his or her nearest birthday at time of entrance into the retirement system or based on a single rate of contributions pursuant to Section 31621.11, 31639.26, or as otherwise authorized by this chapter or the California Public Employees' Pension Reform Act of 2013. The board of supervisors by a majority vote may elect to pay part of the costs of the contributions which would otherwise be assessed to the individual members.

(b) Notwithstanding subdivision (a), pursuant to Section 7522.30, the board of supervisors shall not pay any part of the costs of the member contributions of new members as defined in subdivision (f) of Section 7522.04.

SEC. 48. Section 31873.1 of the Government Code is amended to read:

31873.1. (a) Any cost-of-living contributions required for benefits under Section 31870.3 shall be shared equally between the county or district and the contributing members. The individual member's contributions shall be based upon the member's age at the member's nearest birthday at time of entrance into the retirement system, and shall be expressed as a percentage of the member's normal contribution rate. The board of supervisors by a majority vote may elect to pay all or part of the costs of the contributions which would otherwise be assessed to the individual members.

(b) Notwithstanding subdivision (a), pursuant to Section 7522.30, the board of supervisors shall not pay any part of the costs of the member contributions of new members as defined in subdivision (f) of Section 7522.04.

(c) Until revised by subsequent actuarial studies, the member's cost-of-living contribution rate shall be 39.57 percent of the member's normal contribution rate. These initial cost-of-living contribution rates are shown in the following table, according to the member's age at the time of entry into the system:

Age of entry into system	Percentage of contribution
16	1.16
17	1.16
18	1.16
19	1.16
20	1.16
21	1.16
22	1.16
23	1.16
24	1.16
25	1.17
26	1.17
27	1.18

28	1.18
29	1.19
30	1.20
31	1.20
32	1.21
33	1.22
34	1.23
35	1.24
36	1.25
37	1.26
38	1.27
39	1.28
40	1.29
41	1.30
42	1.31
43	1.32
44	1.33
45	1.34
46	1.36
47	1.37
48	1.38
49	1.40
50	1.41
51	1.43
52	1.44
53	1.46
54 and over	1.47

SEC. 49. Section 31874.5 of the Government Code is amended to read:

31874.5. (a) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds a full 3 percent of the existing cost-of-living increase factor provided by any provision of this article, an additional 1 percent of the excess for each full 3 percent over the existing increase factor shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased by any provision of this article. The increases in allowances resulting from the adoption of this section shall be used

to offset any accumulated carryover balances under existing cost-of-living adjustments. The cost of implementing this section shall be prefunded commencing with the adoption of this section by the board of supervisors. The method of paying the cost of implementing this section may be mutually agreed to in a memorandum of understanding executed by the employer and employee representatives. The board of retirement shall conduct the actuarial studies to determine those costs.

(b) This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

(c) Notwithstanding subdivision (a), a memorandum of understanding regarding the application of the contributions of new members, as defined in subdivision (f) of Section 7522.04, towards paying the cost of the additional cost-of-living adjustment shall not conflict with the requirements of Section 7522.30 or as may be agreed to in accordance with Sections 7522.30 and 31631.

SEC. 50. Section 31899 of the Government Code is amended to read:

31899. (a) The purpose of this chapter is to ensure the federal tax-exempt status of the county employees' retirement systems, to preserve the deferred treatment of federal income tax on public employer contributions to public employee pensions, and to ensure that members are provided with retirement and other related benefits that are commensurate, to the extent deemed reasonable, with the services rendered without violating the intent and purposes of Section 415 of the Internal Revenue Code.

(b) To achieve this purpose, this chapter incorporates certain pension payment limitations and elects the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code. Also, this chapter provides for certain replacement benefits.

(c) On or after January 1, 2013, the application of this chapter is limited as specified in Section 7522.43.

Approved _____, 2013

Governor