

Assembly Bill No. 2331

CHAPTER 966

An act to amend Sections 20588, 31461.3, 31657, 31700, 31830, 31831, 31831.2, 31832, 31833, 31834, 31835, 31835.02, 31835.1, 31836, 31837.1, and 31840.2 of, and to add Sections 31461.6 and 31833.1 to, the Government Code, relating to retirement.

[Approved by Governor September 29, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2331, Floyd. Public employees: compensation earnable.

Under the County Employees Retirement Law of 1937, retirement benefits for members of county and district retirement systems are calculated, in part, based upon a member's compensation earnable, as defined. Subject to specified conditions, compensation earned while the member was a member of the Public Employees' Retirement System or a retirement system of another county is included in the calculation of compensation earnable for that purpose, provided that the period between active memberships in the respective retirement systems does not exceed 90 days, except as specified.

This bill would further provide that compensation earned while a member of the State Teachers' Retirement System or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System shall also be included in that calculation, subject to those specified conditions. It would also make related changes.

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

SECTION 1. Section 20588 of the Government Code is amended to read:

20588. Notwithstanding any other provision of this article, the board may, pursuant to this section and Section 31657, enter into an agreement with the board of retirement of a county maintaining a county retirement system, for termination of participation of a public agency whose contract has been in effect for at least five years in this system or the state with respect to certain safety members who have ceased to be employed by the public agency and have been employed by a county, fire authority, or district as a result of a transfer of firefighting or law enforcement functions from the public agency to the county, fire authority, or district and inclusion of the former public agency employees in that county retirement system. The



agreement shall contain provisions the board finds necessary to protect the interests of this system for determination of the amount, time, manner of transfer of cash or the securities, or both, to be transferred to the county system as representing the actuarial value of the interests in the retirement fund of the public agency and the transferred employees by reason of accumulated contributions credited to that public agency member and the employees transferred. The agreement shall apply only to employees who are employed by the county or district on the effective date of the agreement. All liability of this system with respect to the members transferred under that agreement shall cease and shall become the liability of the county retirement system as of the date of transfer specified in the agreement. Liability of the county retirement system shall be for payment of benefits to transferred employees in accordance with Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3. Any member transferred who becomes a member of a county retirement system upon that transfer date shall be subject to provisions of this part and of Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the county retirement system during his or her membership in this system.

This section shall apply only in Los Angeles and Orange Counties.

SEC. 2. Section 31461.3 of the Government Code is amended to read:

31461.3. The average compensation during any period of service as a member of the Public Employees' Retirement System , 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 by a member for purposes of computing final compensation for that member provided:

(1) The period intervening between active memberships in the respective systems does not exceed 90 days, or six months if Section 31840.4 applies.

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

This section shall be applied retroactively under this chapter in favor of any member whose membership in the Public Employees' Retirement System or in a retirement system established under this chapter in any county terminated prior to October 1, 1957, provided that he or she was eligible to and elected deferred retirement therein within 90 days after eligibility for reciprocity, the period intervening



between active memberships in the respective systems did not exceed 90 days, or six months if Section 31840.4 applies, and he or she retires concurrently under both systems and is credited with that period of service under the other system at the time of retirement. The limitation of the 90-day or six month period between the active membership in the two retirement systems shall not apply as to an employee who entered the employment in which he or she became a member of the State Employees' Retirement System prior to July 18, 1961; provided he or she entered that employment within 90 days, or six months if Section 31840.4 applies of the termination of employment in the county system whether that employment is by the state or by a county, a city or other public agency which contracts with Public Employees' Retirement System, the State Teachers' Retirement System, or 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.

SEC. 3. Section 31461.6 is added to the Government Code, to read:

31461.6. "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.

SEC. 4. Section 31657 of the Government Code is amended to read:

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

(a) The board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the service with which the person was entitled to be credited by the Public Employees' Retirement System at the time of cessation of his or her public agency employment.

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

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

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

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

SEC. 5. Section 31700 of the Government Code is amended to read:

31700. (a) Any member, whether over or under the minimum age of voluntary service retirement, who leaves county service after completing five years of service or who leaves county service and within 90 days, or six months if Section 31840.4 applies, becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or 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, may elect in writing, within 90 days after establishing eligibility for reciprocity, to leave his or her accumulated contributions in the retirement fund and be granted a deferred retirement allowance to become effective either:

(1) Upon the option of the member, at any time at which he or she could have retired had he or she remained in county service in a full-time position.

(2) Not later than the first day of the month following that in which he or she attains the applicable compulsory retirement age, if any.



(b) Any member who is eligible to be granted a deferred retirement allowance under subdivision (a) because he or she has completed five years of service but who fails to so elect, shall be deemed to have elected a deferred retirement.

(c) Any member, regardless of service, whose retirement system coverage ceases but who does not terminate employment shall leave his or her accumulated contributions in the retirement fund, and interest shall continue to be credited pursuant to Section 31591, until the member retires or terminates employment.

SEC. 6. Section 31830 of the Government Code is amended to read:

31830. The provisions of this article are intended to encourage career public service by granting reciprocal retirement benefits to members who are entitled to retirement rights or benefits from two or more retirement systems established under this chapter or from a retirement system established under this chapter and the Public Employees' Retirement System, the State Teachers' Retirement System, or 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, and to delineate the financial obligations of each system and related political entity so that no system or political entity shall be liable for more than its just financial obligation.

SEC. 7. Section 31831 of the Government Code is amended to read:

31831. Any member, whether over or under the minimum age of service retirement, who leaves county service and within 90 days or six months if Section 31840.4 applies thereafter becomes a member of the Public Employees' Retirement System, 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, regardless of the amount of county service, may elect deferred retirement pursuant to Article 9 of this chapter, except that he or she may not, after that election, rescind the election or withdraw any of his or her accumulated contributions while a member of such other system.

SEC. 8. Section 31831.2 of the Government Code is amended to read:

31831.2. Any member who left county or district service on or before December 31, 1974, and became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System, who did not elect to, or was not eligible to, leave his contributions on deposit pursuant to Article 9 (commencing with Section 31700) may now elect to leave his accumulated contributions on deposit pursuant to Article 9



(commencing with Section 31700) by redepositing in the retirement fund of the county or district he left the amount of accumulated contributions and interest he withdrew from such retirement fund plus regular interest thereon from date of separation.

Any such member whose accumulated contributions are on deposit as provided in this section and any other member who left county or district service on or before December 31, 1974, who became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System and who elected to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) shall be eligible for the benefits provided in this article, and for purposes of such benefits shall be deemed to have entered membership in such other system within 90 days, or six months if Section 31840.4 applies, of his separation from county or district employment. The deferred retirement allowance for such member shall be determined in accordance with the provisions of this chapter applicable to members retiring directly from county employment on the date of his retirement. Any member who qualifies for a reduced age at entry pursuant to this section shall be entitled to use such age only from and after the date he completes the redeposit as provided in this section or, if he elected to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700), from and after the date he notifies the board in writing that he desires the benefits of this section. This section shall not apply to members who are retired or who are not in service of an employer making him a member of a retirement system established under this chapter or of the Public Employees' Retirement System.

Unless this chapter expressly provides to the contrary the retirement allowance received by a member pursuant to this section shall be calculated based upon the laws pertaining to the retirement system of such district or county as of the date of retirement and not the laws pertaining to such system as of the date the member first left county or district service.

This section shall not be applicable to any member entering service after December 31, 1979.

This section shall apply only in a county of the first class, as established by Sections 28020 and 28022 but shall not be operative in a county until adopted by resolution of the board of supervisors.

SEC. 9. Section 31832 of the Government Code is amended to read:

31832. The board shall, on request of the Board of Administration of the Public Employees' Retirement System, the board of retirement of a retirement system established in another county under this chapter, the Board of Retirement of the State Teachers' Retirement System, or the board of retirement 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, supply information and data necessary for the administration of such other system as it is affected by membership in and service credited under this system.

SEC. 10. Section 31833 of the Government Code is amended to read:

31833. For the purpose of this article and Articles 6 and 6.8 of this chapter, age at time of entrance into the retirement system for a person who enters within 90 days, or six months if Section 31840.4 applies, of last rendering service as a member of the Public Employees' Retirement System, another retirement system established under this chapter, the State Teachers' Retirement System, or 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, and who retains his membership in such other system or systems, shall be his age at entry into the first such other system.

SEC. 11. Section 31833.1 is added to the Government Code, to read:

31833.1. For the purpose of this article and Article 6 (commencing with Section 31620) and Article 6.8 (commencing with Section 31639) of this chapter, a member's age at the time of entrance into the retirement system for a person who, after entering, redeposits the contributions he or she withdrew from the Public Employees' Retirement System, and who otherwise meets all requirements for reciprocity under this article by reason of his or her membership in the Public Employees' Retirement System, shall be his or her age at entry into the Public Employees' Retirement System, commencing with the pay period immediately following receipt of confirmation from the Public Employees' Retirement System that all withdrawn contributions have been redeposited.

SEC. 12. Section 31834 of the Government Code is amended to read:

31834. Notwithstanding Section 31558 and regardless of age at entry into the system in counties subject to the provisions of Section 31676.1 and in counties electing pursuant to Section 31695.1, a person shall become a safety member on the first day of the calendar month following his entrance into service in a position the principal duties of which are defined in Sections 31470.2, 31470.4 or 31470.6, if such first day of the calendar month is within 90 days, or six months if Section 31840.4 applies of last rendering active police or fire suppression or lifeguard work as a member of the Public Employees' Retirement System or a retirement system established under this chapter in another county, the State Teachers' Retirement System, or 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, and the person retains his membership in such other system.

SEC. 13. 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 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 by a member for purposes of computing final compensation for such member provided:

(1) The period intervening between active memberships in the respective systems does not exceed 90 days, or 6 months if Section 31840.4 applies. Such 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 effecting deferred retirement shall not be applicable to any members who left county or district service prior to October 1, 1949, and subsequently redeposited.

(2) He retires concurrently under both systems and is credited with such period of service under such other system at the time of retirement.

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

SEC. 14. Section 31835.02 of the Government Code is amended to read:

31835.02. Notwithstanding any other provision of this part, Section 31835 shall also apply to any member who was a member of a retirement system established under this chapter and who subsequently becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or 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, providing the period intervening between the periods for which active service was credited does not exceed 90 days, or six months if Section 31840.2 applies, and the member retires concurrently under both systems and is credited with the periods of service at the time of retirement.

This section shall only be operative in any county of the fourth class as described in Sections 28020 and 28025 if it is adopted by a majority vote of the board of supervisors.



SEC. 15. Section 31835.1 of the Government Code is amended to read:

31835.1. Notwithstanding the provisions of Sections 31835 and 31836, a member of a retirement system established under this chapter who is eligible to retire at age 50 pursuant to Section 31672, or who is required to retire because of age while a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or 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, but who cannot retire concurrently from the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or 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 entitled to have his final compensation and service determined under Sections 31835 and 31836 as if he had retired concurrently under such other system.

SEC. 16. 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 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 is presently receiving a retirement allowance from another retirement system.

SEC. 17. Section 31837.1 of the Government Code is amended to read:

31837.1. Notwithstanding Sections 31837 and 31838, any member covered under Section 31751 who elects, pursuant to Sections 31700 and 31832, to leave accumulated contributions on deposit may be retired for disability and receive a disability retirement allowance under this section during any period hereafter in which the member receives a disability retirement allowance under the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement



System or 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, subject to all of the following conditions:

(a) That such allowance shall not be paid if the period intervening between the last service credited under this system and becoming a member in such other system exceeds six months.

(b) That, if the member is retiring for non-service-connected disability, the disability requirements shall be that of the other system and the member's retirement allowance shall be based on the other system's disability benefit formula. The disability benefit received in the county shall be calculated as if all the member's service was in the other system but then prorated using the ratio of service in this county to the total service in both systems.

(c) That, if the member is retiring for disability arising out of and in the course of employment subject to such other system, the allowance to the member shall be an annuity which is the actuarial equivalent of the member's accumulated contributions at the time of retirement.

SEC. 18. Section 31840.2 of the Government Code is amended to read:

31840.2. The provisions of this article extending rights to a member of a county retirement system established under this chapter or subjecting him or her to any limitation by reason of his or her membership in the Public Employees' Retirement System shall apply in like manner and under like conditions to a member by reason of his or her membership in any retirement system established under Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 with respect to which an ordinance complying with Section 45310.5 has been filed with and accepted by the board or by reason of his or her membership in a retirement system established by or pursuant to the charter of a city or city and county or by any other public agency of this state which system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in a system established under this chapter and with respect to which the governing body of such city, city and county or public agency and the board have entered into agreement pursuant to Section 20351. This section shall apply only to a member whose termination and subsequent reentry into employment resulting in a change in membership from a system established under this chapter to such other system or from such other system to a system established under this chapter occurred after such acceptance or determination by the board; provided, however, that provisions relating to computation of final compensation shall apply to any other member if such provision would have applied had the termination and entry into employment occurred after such acceptance or determination by the board.



As used in this section, “board” means the Board of Administration of the Public Employees’ Retirement System.

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