



# Board of Retirement Regular Meeting

## Sacramento County Employees' Retirement System

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### Agenda Item 17

**MEETING DATE:** October 20, 2021

**SUBJECT:** SACRS Legislative Proposal for 2022

**SUBMITTED FOR:** \_\_\_ Consent        X   Deliberation and Action      \_\_\_ Receive and File

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### **RECOMMENDATION**

Staff recommends the Board support the State Association of County Retirement Systems (SACRS) sponsorship of legislation in 2022 to make technical and clarifying amendments to the County Employees' Retirement Law of 1937 (CERL).

### **PURPOSE**

This item complies with the Strategic Management Plan goal of stakeholder communication and outreach by participating in the legislative process to monitor changes in state law affecting public pension plans.

### **DISCUSSION**

The SACRS Legislative Committee is seeking approval of the member systems at the November 12 SACRS business meeting to sponsor the legislation as part of an annual "housekeeping" bill to update the CERL with noncontroversial amendments that are aimed at improving the administration of the retirement systems. Each year, the Legislature moves forward a retirement-system omnibus bill with technical amendments affecting CalPERS, CalSTRS, and the county retirement systems.

After fielding proposals from member systems and deliberating among the SACRS legislative committee throughout the year, several cleanup proposals were selected for inclusion in next year's bill, which is expected to be introduced in January 2022 when the legislative session begins. Under SACRS' bylaws, the 20 members systems must vote to move the legislative proposal forward.

The proposed amendments and draft bill language are detailed in the accompanying attachments.

**ATTACHMENTS**

- Board Order
- SACRS Legislative Committee Letter
- Summary matrix of CERL Provisions
- Draft Language

Prepared by:

/S/

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Eric Stern  
Chief Executive Officer



# Retirement Board Order

## Sacramento County Employees' Retirement System

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**Before the Board of Retirement  
October 20, 2021**

MOTION:

### **SACRS Legislative Proposal for 2022**

THE BOARD OF RETIREMENT hereby accepts the recommendation of staff to approve SACRS sponsorship of 2022 legislative proposal regarding technical and clarifying amendment to the County Employees' Retirement Law of 1937.

I HEREBY CERTIFY that the above order was passed and adopted on October 20, 2021 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES (Present but not voting):

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Richard B. Fowler II  
Board President

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Eric Stern  
Chief Executive Officer and  
Board Secretary



September 20, 2021

RE: SACRS-Sponsored Legislation in 2022

Dear SACRS Board of Directors,

The SACRS Legislative Committee recommends that SACRS sponsor legislation in 2022 to amend various sections of the County Employees' Retirement Law of 1937 (CERL).

At its September 17, 2021 meeting, the Legislative Committee approved bill language for a CERL Omnibus Bill and recommended approval by the SACRS Board of Directors. If approved by the SACRS membership at the Fall Conference, the bill language can be introduced in January 2022 for consideration during the 2022 legislative session.

The enclosed language reflects the work of Legislative Committee members, in collaboration with system administrators, over the past year to develop non-controversial, technical, and clarifying amendments to the CERL.

A summary matrix and draft bill language are attached.

If you have questions or would like to provide additional feedback, please contact us at [dnelsen@acera.org](mailto:dnelsen@acera.org) or [sterne@saccounty.net](mailto:sterne@saccounty.net).

Respectfully,

/s/

David Nelsen and Eric Stern  
Co-Chairs, Legislative Committee

#### ATTACHMENTS

- Summary Matrix
- Draft Bill Language

## 2022 CERL Clean-Up Bill

Issue	Gov Code	Topic	Issue/Justification
1	31452.7	Beneficiaries - Designating Estate	This amendment would allow a member to designate a corporation, trust, or estate to receive his or her last check upon death. This does not allow an estate or trust to receive ongoing payments. Note: Members who choose Option 1 already can designate an estate to receive the balance of contributions.
2	31525	Board of Supervisor approval of Board of Retirement regulations	This amendment would delete the requirement that Board of Retirement regulations must be approved by the Board of Supervisors. This language is a holdover from when CERL systems were managed by a county department, and was adopted prior to the passage on Prop.162 in 1992. Adoption of regulations is part of the BOR's duty to administer the system.
3	31641.4	Prior Service -- Military Reserve Service	This amendment would note a potential federal pre-emption issue regarding purchasing prior military reserve service. Current statute establishes that prior service purchases from another public agency must not yield a pension from that agency. However, 10 U.S.C. § 12736 provides that a period of military service may not be excluded from credit towards a civilian employment pension just because that period also counts towards reservist retirement. Thus, the question arises which statute prevails in a conflict between 10 U.S.C. § 12736 and Section 31641.4. The Ninth Circuit Court of Appeal considered that question in Cantwell v. San Mateo County, 631 F.2d 631 (9th Cir. 1980), and determined that federal law overrides Section 31641.4.
4	31646	Service Purchase for FMLA Leave	This amendment would include all leaves that are covered under the FMLA that are not due to the illness of the member.
5	31646.XX	Furloughs	This amendment would provide boards with authority to prevent temporary mandatory furloughs from impacting member benefits under specified circumstances. Similar to CalPERS statutes (see GC 20968, 20969, 20969.1, 20969.2), but granting more discretion to boards, this proposed new code section may help avoid inequities that can arise because of the timing of temporary mandatory furloughs in relation to members' planned retirements.

6	31680.2	Post-Retirement Employment	This amendment would add clarifying language that nonsalaried positions and per diems do not count as double dipping for members appointed to boards and commissions under purview of a participating employer of a county system; similar to language of 7522.57 for state boards and commission.
7	31725.7 31760	Disability Retirement: Optional Allowances	This amendment would allow members to change optional allowance if subsequently granted disability retirement, regardless of when the member filed a Disability Retirement application. Currently, Section 31725.7 only allows a benefit option change for members who retired for service after filing a disability retirement application but does not provide the same ability for those who retired for service before filing an application, even though both members may subsequently be granted a disability retirement.
8	31726 31726.5	Nonservice-connected disability	This amendment restructures the sections to provide more clarity; no substantive changes. The sections on the nonservice-connected disability retirement benefit formula distinguish between those retiring on or after age 65 for general and on or after age 55 for safety versus those retiring under these ages in the same section: 31726 and 31726.5.
9	31730	Disability -- Reinstatement	This amendment addresses the scenario in which an employer does not offer to take the employee back who has been found to no longer be incapacitated. The proposed amendment would convert convert the disability retirement into service retirement without adjusting benefit (i.e. actuarial reduction). This conforms to existing practice of several systems. Note: Similar to GC 21193 in which CalPERS only reinstates if the local employer offers to take the employee back.
10	31761 31762 31763 31764	Beneficiary Designation	This amendment would insert the word "natural" in front of the phrase "person having an insurable interest in his or her life" to clarify that the optional retirement settlement death benefit cannot be paid to a fictitious person such as a trust or corporation.
11	31781	Lump Sum Death Benefit	This amendment would add language consistent with other CERL sections that provide direction on the calculation of compensation earnable and pensionable compensation when the member is on a leave of absence during the 12 months immediately preceding the member's death.

12	31838.5	Concurrent Retirement: Disability	<p>Section 31838.5 prevents windfalls for members who retire for disability from one or more systems. This amendment would clarify that a CERL system must reduce a member's allowance from that system as much as necessary so that the member does not receive a combined allowance that is "greater than the amount the member would have received had all the member's service been with only one entity." The statute currently refers to a pro rata reduction by each system, but some systems (like CalPERS) are not subject to section 31838.5 and do not make any reduction. This may leave the member with the windfall that section 31838.5 is designed to prevent, depending upon how a system calculates its "pro rata" reduction. This statute would make clear that the windfalls section 31838.5 is designed to prevent should always be prevented.</p>
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*Issue 1: 31452.7 – Beneficiaries Designating Estate*

*This amendment would allow a member to designate a corporation, trust, or estate to receive his or her last check upon death. This does not allow an estate or trust to receive ongoing payments. Note: Members who choose Option 1 already can designate an estate to receive the balance of contributions.*

Section 31452.7 of the Government Code is amended to read:

(a) Upon the death of any member after retirement, any retirement allowance earned but not yet paid to the member shall, notwithstanding any other provision of law, be paid to the member’s designated beneficiary.

(b) Upon the death of any person receiving a survivor’s allowance under this chapter, any allowance earned but not yet paid to the survivor shall, notwithstanding any other provision of law, be paid to the survivor’s designated beneficiary.

**(c) For purposes of this section, “beneficiary” includes, but is not limited to, a corporation, a trust, or an estate.**

*Issue 2: 31525 – BOR Regulations*

*This amendment would delete the requirement that Board of Retirement regulations must be approved by the Board of Supervisors. This language is a holdover from when CERL systems were managed by a county department, and was adopted prior to the passage on Prop.162 in 1992. Adoption of regulations is part of the BOR’s duty to administer the system.*

Section 31525 of the Government Code is amended to read:

The board may make regulations not inconsistent with this chapter, **the Public Employees’ Pension Reform Act of 2013, The California Pension Protection Act of 1992, and any other provisions of law applicable to county retirement systems.**

~~The regulations become effective when approved by the board of supervisors.~~

*Issue 3: 31641.4 -- Prior Military Reserve Service*

*This amendment would note a potential federal pre-emption issue regarding purchasing prior military reserve service. Current statute establishes that prior service purchases from another public agency must not yield a pension from that agency. However, 10 U.S.C. § 12736 provides that a period of military service may not be excluded from credit towards a civilian employment pension just because that period also counts towards reservist retirement. Thus, the question arises which statute prevails in a*



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*conflict between 10 U.S.C. § 12736 and Section 31641.4. The Ninth Circuit Court of Appeal considered that question in *Cantwell v. San Mateo County*, 631 F.2d 631 (9th Cir. 1980), and determined that federal law overrides Section 31641.4.*

Section 31641.4 of the Government Code is amended to read:

A member shall receive credit for employment in public service only for such service as he is not entitled to receive a pension or retirement allowance from such public agency. The service for which he elects to contribute and the fact that no pension or retirement allowance will accrue to such member by virtue of his employment in such public agency must be certified to by an officer of the public agency where he rendered such public service or must be established to the satisfaction of the board. **Nothing in this paragraph prohibits a member from receiving credit for a period of federal public service where federal law expressly permits such credit even though the member is already entitled to receive a pension or retirement allowance from that service (*Cantwell v. San Mateo County*, 631 F.2d 631 (9th Cir. 1980)).**

*Issue 4: 31646 – Credit for Uncompensated Leave of Absence for Illness; Parental Leave; Conditions*

*This amendment would include all leaves that are covered under the FMLA that are not due to the illness of the member.*

Section 31646 of the Government Code is amended to read:

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

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

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claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.

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

**(c) (1) A member who returns to active service following an uncompensated leave of absence on account of the serious illness of a family member when the absence is eligible for coverage under the Family Medical Leave Act, 29 U.S.C. section 2601 et. seq., or the California Family Rights Act, Government Code section 12945 et. seq., may receive service credit for the period of the absence upon the payment of the contributions that the member and the employer would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. For purposes of this subdivision, leave on account of illness of a family member is defined as any time, up to one year, during which a member is granted an approved leave to care for a seriously ill family member and returns to employment at the end of the approved leave for a period of time at least equal to that leave. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit shall not be received for any period of such an absence in excess of 12 consecutive months.**

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

*Issue 5: 31646.XX – Furloughs*

*This amendment would provide boards with authority to prevent temporary mandatory furloughs from impacting member benefits under specified circumstances. Similar to CalPERS statutes (see GC 20968, 20969, 20969.1, 20969.2), but granting more discretion to boards, this proposed new code section may help avoid inequities that can arise because of the timing of temporary mandatory furloughs in relation to members' planned retirements.*

Section 31646.XX of the Government Code is added to read:

**The board may grant members who are subject to a temporary mandatory furlough the same service credit and “compensation earnable” or “pensionable compensation” to which the members would have been entitled in the absence of the temporary mandatory furlough. The board may condition such grant on the receipt of additional member and/or employer contributions that the board**

determines are necessary to fund any benefits granted under this section on an actuarially sound basis.

For the purposes of this section, a “temporary mandatory furlough” refers to time during which a member is directed to be absent from work without pay for up to one quarter of the member’s normal working hours, with such reduced working hours in place for no longer than two years.

*Issue 6: 31680.20 – Postretirement Employment*

*This amendment would add clarifying language that nonsalaried positions and per diems do not count as double dipping for members appointed to boards and commissions under purview of a participating employer of a county system; similar to language of 7522.57 for state boards and commission.*

Section 31680.20 of the Government Code is added to read:

**A person who is retired under this chapter may serve without reinstatement from retirement or loss or interruption of benefits under this chapter or the Public Employees’ Pension Reform Act of 2013 provided the service is on a part-time state, county, city, district, or other political subdivision board or commission. A retired person whose employment without reinstatement is authorized by this subdivision shall acquire no benefits, service credit, or retirement rights with respect to the employment. Part-time service is limited to less than 20 hours per week, and salary or stipend of the part-time service may not exceed \$60,000 annually.**

*Issue 7: 31725.7, 31760 – Disability Retirement: Optional Allowances*

*This amendment would allow members to change optional allowance if subsequently granted disability retirement, regardless of when the member filed a Disability Retirement application. Currently, Section 31725.7 only allows a benefit option change for members who retired for service after filing a disability retirement application but does not provide the same ability for those who retired for service before filing an application, even though both members may subsequently be granted a disability retirement.*

Section 31725.7 of the Government Code is amended to read:

(a) At any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of his or her entitlement to disability retirement. If he or she is found to be eligible for disability retirement, appropriate

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adjustments shall be made in his or her retirement allowance retroactive to the effective date of his or her disability retirement as provided in Section 31724.

**(b) Notwithstanding subdivision (a), this section shall also apply to a member retired for service who subsequently files an application for disability retirement with the board. If he or she is found to be eligible for disability retirement, appropriate adjustments shall be made in his or her retirement allowance retroactive to the effective date of his or her disability retirement as provided in Section 31724.**

~~(b)~~**(c)** This section shall not be construed to authorize a member to receive more than one type of retirement allowance for the same period of time nor to entitle any beneficiary to receive benefits which the beneficiary would not otherwise have been entitled to receive under the type of retirement which the member is finally determined to have been entitled. In the event a member retired for service is found not to be entitled to disability retirement he or she shall not be entitled to return to his or her job as provided in Section 31725.

~~(c)~~**(d)** If the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary shall be as selected by the member at the time of retirement for service. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall also be binding as to the type of allowance the member receives if the member is awarded a disability retirement.

~~(d)~~**(e)** Notwithstanding subdivision ~~(e)~~**(d)**, if the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary may be as selected by the member at the time of retirement for service, or as if the member had selected an unmodified allowance. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall not be binding as to the type of allowance the member receives if the member is awarded a disability retirement. A change to the optional or unmodified type of allowance shall be made only at the time a member is awarded a disability retirement and the change shall be retroactive to the service retirement date and benefits previously paid shall be adjusted. If a change to the optional or unmodified type of allowance is not made, the benefit shall be adjusted to reflect the differences in retirement benefits previously received. This paragraph shall only apply to members who retire on or after January 1, 1999.

Section 31760 of the Government Code is amended to read:

(a) Except as provided in subdivisions **(b) and (c)**, until the first payment of any retirement allowance is made, a member or retired member, in lieu of the retirement allowance for the member's life alone, may elect to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement

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allowance payable throughout life in accordance with one of the optional settlements specified in this article.

(b) Notwithstanding subdivision (a), a member who applies for disability and is subsequently granted a service retirement pending a determination of entitlement to disability may change the type of optional or unmodified allowance that he or she elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.

**(c) Notwithstanding subdivision (a), a member retired for service who applies for and is subsequently granted a disability retirement may change the type of optional or unmodified allowance that he or she elected at the time the service retirement was granted, subject to the provisions of Section 31725.7.**

*Issue 8: Sections 31726 and 31726.5: Nonservice-connected disability*

*This amendment restructures the sections to provide more clarity; no substantive changes. The sections on the nonservice-connected disability retirement benefit formula distinguish between those retiring on or after age 65 for general and on or after age 55 for safety versus those retiring under these ages in the same section: 31726 and 31726.5.*

Section 31726 of the Government Code is amended to read:

**(a)** Upon retirement for ~~non-service~~**nonservice**-connected disability a member who has attained age 65 shall receive his or her service retirement allowance.

**(b)** Every member under age 65 who is retired for ~~non-service~~**nonservice**-connected disability and who is not simultaneously retired as a member on deferred retirement of the ~~State~~**Public** Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of the following:

~~(a)~~**(1)** The sum to which he or she would be entitled as service retirement; **or**

~~(b)~~**(2)** A sum which shall consist of ~~any of the following~~:

~~(1)~~**(A)** An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

~~(2)~~**(B)** If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

~~(3)~~**(C)** If, in the opinion of the board, his or her disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district. This paragraph

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shall only apply to a person who becomes a member of the system on or after January 1, 1988.

Section 31726.5 of the Government Code is amended to read:

**(a)** Upon retirement for nonservice-connected disability a safety member who has attained age 55 shall receive his or her service retirement allowance.

**(b)** Every safety member under age 55 who is retired for nonservice-connected disability and who is not simultaneously retired as a member on deferred retirement of the Public Employees' Retirement System or a retirement system established under this chapter in another county shall receive a disability retirement allowance which shall be the greater of:

~~(a)~~**(1)** The sum to which he or she would be entitled to as service retirement; or

~~(b)~~**(2)** A sum which shall consist of:

~~(1)~~**(A)** An annuity which is the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

~~(2)~~**(B)** If, in the opinion of the board, his or her disability is not due to intemperate use of alcoholic liquor or drugs, willful misconduct, or violation of law on his or her part, a disability retirement pension purchased by contributions of the county or district.

~~(3)~~**(C)** If, in the opinion of the board, his or her disability is not due to conviction of a felony or criminal activity which caused or resulted in the member's disability, a disability retirement pension purchased by contributions of the county or district.

~~Paragraph 3~~**Subparagraph (C)** shall only apply to a person who becomes a member of the association on or after January 1, 1988.

*Issue 9: 31730 – Disability Reinstatement*

*This amendment addresses the scenario in which an employer does not offer to take the employee back who has been found to no longer be incapacitated. The proposed amendment would convert convert the disability retirement into service retirement without adjusting benefit (i.e. actuarial reduction). This conforms to existing practice of several systems. Note: Similar to GC 21193 in which CalPERS only reinstates if the local employer offers to take the employee back.*

Section 31730 of the Government Code is amended to read as follows:

**(a)** If the board determines that the beneficiary is not incapacitated, and his or her employer offers to reinstate that beneficiary, his or her retirement allowance shall be

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canceled forthwith, and he or she shall be reinstated in the county service pursuant to the regulations of the county or district for reemployment of personnel.

**(b) If the board determines that the beneficiary is not incapacitated, and his or her employer does not offer to reinstate that beneficiary, notwithstanding any requirement of this chapter regarding eligibility therefor, his or her retirement allowance shall be reclassified to a service retirement in the same amount and subject to any applicable future cost of living adjustments. The optional or unmodified type of allowance selected by the beneficiary at the time of retirement for disability shall be binding as to the service retirement.**

*Issue 10: 31761, 31762, 31763, and 31764 – Optional Retirement Allowances:*

*This amendment would insert the word “natural” in front of the phrase “person having an insurable interest in his or her life” to clarify that the optional retirement settlement death benefit cannot be paid to a fictitious person such as a trust or corporation.*

Sections 31761, 31762, 31763, and 31764 of the Government Code are amended to read:

31761 – Optional settlement 1 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and, if he or she dies before he or she receives in annuity payments the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her estate or to the natural person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board.

31762 – Optional settlement 2 consists of the right to elect in writing to have a retirement allowance paid to him or her until his or her death, and thereafter to the natural person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

31763 – Optional settlement 3 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to the natural person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

31764 – Optional settlement 4 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and thereafter to have other benefits as are approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the natural persons, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement. The designation shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

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*Issue 11: 31781 – Death Benefit; Elements*

*This amendment would add language consistent with other CERL sections that provide direction on the calculation of compensation earnable and pensionable compensation when the member is on a leave of absence during the 12 months immediately preceding the member's death.*

Section 31781 of the Government Code is amended to read:

The death benefit shall consist of:

- (a) The member's accumulated contributions.
- (b) An amount, provided from contributions by the county or district, equal to one-twelfth of the annual compensation earnable or pensionable compensation as defined in [Section 7522.34](#), whichever is applicable, by the deceased during the 12 months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed 50 percent of such annual compensation. **The computation for any absence shall be based on the compensation of the position held by the member at the beginning of the absence.**

*Issue 12: 31838.5 – Concurrent Retirement; Disability*

*Section 31838.5 prevents windfalls for members who retire for disability from one or more systems. This amendment would clarify that a CERL system must reduce a member's allowance from that system as much as necessary so that the member does not receive a combined allowance that is "greater than the amount the member would have received had all the member's service been with only one entity." The statute currently refers to a pro rata reduction by each system, but some systems (like CalPERS) are not subject to section 31838.5 and do not make any reduction. This may leave the member with the windfall that section 31838.5 is designed to prevent, depending upon how a system calculates its "pro rata" reduction. This statute would make clear that the windfalls section 31838.5 is designed to prevent should always be prevented.*

Section 31838.5 of the Government Code is amended to read:

No provision of this chapter shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance, whether service connected or nonservice connected to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.



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In cases of service-connected disability allowances only, the limitation on disability allowances provided for in this section shall apply to service-connected disability allowances payable to those who, after being employed with another county or an entity within the Public Employees' Retirement System, become employed by a second public entity on or after January 1, 1984.

Each entity shall calculate its respective obligations based upon the member's service with that entity and each shall adjust its payment on a pro rata basis. **If, however, another entity does not reduce the amount it pays the member, an entity subject to this section shall reduce the allowance it pays the member by as much as necessary to ensure that the member does not receive a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.**