

## **Retirement Timeline (Sections Adopted by Resolution)**

1/October 1947<sup>1</sup>

- Adopts 1937 Act which creates the retirement system

2/May 1958

- Resolution 3108 adopts the following sections: Sections 31641.95, 31470.7, 31478, 31479, 31480, 31641.1, 31641.2, 31641.3, 31641.4, 31641.8, 31641.9
  - **31641.95**
    - Sets effective date of measure to the first of the month after adoption
  - **31470.7**
    - Election by a member to receive credit pursuant to 31641.1 or 31641.5 is not made a member during any part of public/county service
  - **31478**
    - Defines "public agency"
  - **31479**
    - Defines "public service" – service rendered as officer/employee of public agency that are compensated and for which he or she is not entitled to receive credit in an retirement system supported by public funds once becoming a member of this system
  - **31480**
    - Provisions of chapter that apply to retirement for service or disability, deferred retirement, and the death benefit, are not applicable to any member claiming public service or claiming service credit
  - **31641.1**
    - Member who was in public service before becoming a member may elect (by written notice to Bd.) to make contributions and to receive credit in retirement for all allowed public service time
  - **31641.2**
    - If electing to contribute under 31641.1, shall contribute by lump sum payment or by installment payments over period not to exceed five years totaling to an amount equal to the sum of [twice the contributions that would have been made to the retirement fund if a member during the same length of time as elected for credit] + [regular interest that would have accrued to member contributions]
    - By 4/5 vote, may provide that it shall make on behalf of officers and employees eligible to receive credit for prior service under the chapter, who elect prior to filing retirement application, part of the contributions specified above. These contributions are available only for retirement for service or disability and a member resigning from service can withdraw only that portion of contributions made by him or her.
  - **31641.3**
    - Compensation first earnable under 31641.2 is that earnable by member at the time of membership commencement (after 1952)

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<sup>1</sup> The number refers to the list of organized documents in attached exhibit A.

- **31641.4**
  - Member shall receive credit for employment in public service only for such service as is not entitled to receive pension/retirement allowance from agency
  - Service for which he elects to contribute and the fact that accrual does not occur based on membership must be certified by officer of agency or established to the satisfaction of the board
- **31641.8**
  - Member who has elected to make contributions by installments may at any time complete payment by lump sum
- **31641.9**
  - All contributions made by a member shall be considered normal contributions *but* shall not be matched by the county upon retirement of the member

#### 3/July 1961

- BOS adopts amendments to Retirement Action (1961) → 31681.2, 31681.4
  - **31681.2**
    - Every retirement allowance payable for time commencing on effective date increased by \$25 per month if retired member is credited with 20+ years of service – under 20 years is given ratio (X:20years = Y:\$25) (PRIOR TO 1948)
  - **31681.4**
    - Every retirement allowance for system member who retired in specified time period (1/1/48-2/1/55) is increased (through BOS majority vote and resolution) by \$25 per month or by same ratio as in 31681.2, shown above

#### 4/March 1962

- Ordinance 429 increases retirement allowances

#### 5/July 1964

- Resolution 64-545 adopts the following sections: 31681.7, 31739.4, 31789 – notes in the resolution that this is possible due to economic conditions, which warrant the temporary increase in retirement and death benefits
  - **31681.7**
    - Every retirement allowance payable during time the section is operative shall be increased by an amount equal to [\$1 times years of service (not to exceed 20 years)] x [number from table below]

Period during which retirement became effective	Multiply by
On or prior to June 30, 1957 .....	2
Twelve months ended June 30, 1958 .....	1.5
Twelve months ended June 30, 1959 .....	1
Twelve months ended June 30, 1960 .....	0.5

- The section is not operative except as follows: the BOS at any time may find economic conditions such as to require either this entire section or the section applied to one or more categories of members in the above table be applicable. The BOS may rescind or modify such finding and find that

economic conditions do not require this section be applicable at all or applicable to a different extent than before. This section shall be applicable only during the time when such finding is in effect. Additional retirement benefits pursuant to this section create no rights and do not preclude withdrawal of benefits by action of the BOS or the Legislature.

- **31739.4**
  - *Same as 31681.7(supra)*
- **31789**
  - Amount death payment after retirement set by BOS majority vote (not to exceed \$5,000)
  - Death benefit can be paid in part by surplus earnings of the retirement system
  - This section is not operative without a majority vote determining that a portion may be paid in the surplus manner described above

#### 6/April/May 1968

- Retirement Board receives a referral from the BOS; Retirement Board recommends that the BOS adopt Sections 31681.51 and 31739.31 of the Employees Retirement Act of 1937 (CERL) → deals with cost of living increases for retired employees
  - Matter was ordered by BOS to be referred to DA for a report back to the Board

#### 9/June 1968

- Ordinance 540 increases benefits (operative July 1968)
  - Every retirement allowance, optional death allowance, or annual death allowance is increased as follows:

Period during which retirement became effective	Percentage of increase in monthly retirement allowance
On or prior to June 30, 1962	10%
12 months ended June 30, 1963	8%
12 months ended June 30, 1964	6%
12 months ended June 30, 1965	4%
12 months ended June 30, 1966	2%

Section 2. In no event shall any allowance be increased by an amount greater than fifty dollars (\$50) a month or less than ten dollars (\$10) a month.

- Repeals Ordinance 429 and any others in conflict

#### 11/February 1971

- Ordinance 747A
  - Pursuant to Section 31874, BOS adopted Article 16.5 of the County Employees Retirement Law of 1937 (CERL) → includes Section 31870.1 (authorizes a maximum annual increase /decrease of cost of living allowance of 3%)
    - **31874 – Adoption by Board of Supervisors; Actuarial Survey**
      - This article (commencing with Section 31870) may be made applicable in any county on the date specified in the ordinance, or if no such date is specified, on the first day of the month after the effective date of an ordinance adopted by the board of supervisors to this effect, provided that an actuarial survey of the retirement system has been made by the adopting county prior to the passage

of said ordinance.<sup>2</sup> No provision of this chapter shall prevent or be construed to prevent the use and expenditure of surplus described in Section 31592.2 to fund any part or all of any increases in allowances otherwise permitted after this article or Article 16.6 (commencing with Section 31875) or both this article and Article 16.6 or any of the provisions of this article or Article 16.6 have been made applicable.

- Except in a county of the first class, upon adoption by a county providing increases in allowances pursuant to this article, of Article 5.5 (commencing with Section 31510) of this chapter, only that portion of the increases in allowances which is paid from surplus earnings described in Section 31592.2 shall be paid, instead, from the Supplemental Retiree Benefits Reserve established pursuant to Section 31510.8 (now: *Gov. Code § 31618*).

#### 12/April 1971

- Resolution (714254)
  - Fixed formula – 31676.11
  - Adopts MOU proposal that contains 5% cost of living adjustment, effective July 1, 1971 (see b. below)

#### 13/June 1971

- Ordinance 71-806
  - **31725.5**
    - Disabled member who can perform other service is re-assigned rather than receiving a disability retirement allowance

#### 15/October 1971

- Resolution of **Retirement Board – 31462.1**
  - Defines "final compensation" as the average annual compensation earnable by a member during any year elected by the member at or before the time he or she files and application for retirement or, if no election, the year immediately preceding retirement.
  - ***Retirement Board met and directed action (see May 1972 below)***

#### 17/November 1971

- **31557**
  - Officers and employees of any district become members on the first day of the calendar month after the BOS adopts by 4/5 vote a resolution providing the inclusion of the Data Processing Center in the retirement association.

#### 18/May 1972

- BOS ratifies Resolution of Retirement Board (**31462.1**)

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<sup>2</sup> There is no evidence in the records of the Actuarial Study.

#### 19/October 1974

- First Amendment to Board of Retirement Bylaws adopted by the BOS
  - As provided in:
    - **31691**
      - Empowers BOS or governing body of district under CERL, by ordinance or resolution/ordinance in the latter, to provide for contribution from funds not in retirement fund for, among other premium payments, the benefit of any retired member
    - **31452.5**
      - Board may authorize a member-signed deduction from allowance or benefit toward various premiums
    - **53205.2**
      - Directs agency/governing board to give preference to health benefit plans that do not terminate upon retirement of the employee and which provide the same benefits for retired personnel with no increase in cost (provided agency/board contributes at least \$5 per month toward the cost of the health benefits plan)

#### December 1974

- Resolution 74-469
  - **Art. 8.5 of CERL (1937)**
    - Retirement Associations may grant retired members health insurance benefits
  - **31525**
    - Provides that the Retirement Board/Association actions must be approved of by the BOS for the regulation to become effective

#### 21/May 1979

- Resolution 79-167
  - **31529.5**
    - Where County Counsel cannot provide legal services to Retirement Board (conflict of interest or other compelling reason determined in consultation between CC and RB), the Board may contract for legal services of an attorney in private practice, whose fees are paid from 31592 reserves, or in absence of excess reserves, from county general fund
  - **31729**
    - Details a board-required disability beneficiary's medical examination
  - **31533**
    - Retirement Board is authorized to appoint a member of the CA state bar to serve as a referee in any needed hearing during determination proceedings

#### July 1979

- Resolution 79-216
  - *31641.95 re up*
    - *sets effective date of measure to the first of the month after adoption*

- *Members shall be permitted to obtain credit in said system for certain public service rendered prior to employment with this County*

*The following do not apply in Mendocino County on or after 7/3/1979*

- **31461.1 (LA), 31470.7 (status as a member), 31478 (public agency), 31480 (service requirements)**
- **31461.2**
  - Defines "compensation earnable" – the average compensation as determined by the board, for the period under consideration, upon basis of average fee amount received each month
- **31461.3**
  - Consideration of average compensation in compensation earnable concurrent retirement from two systems or period between active memberships is under 90 days (6 months under 31840.4)
- **31461.4**
  - (LA) Compensation and compensation earnable does not include any increase in cafeteria or flexible benefit plans in some cases
- **31461.8 (n/a)**
- **31461.9 (n/a)**

23/November 1979

Termination of the CA State Social Security Agreement

24/July 1980

- Resolution 80-1 (Bd. of Directors of the MC Employees' Retirement Association)
  - Change by Retirement Board was not approved...difference in 5% paid and 3% required (by 71-747) to be paid from Retirement System earnings (per **31874.3**)
  - **31870.1**
    - The board shall before April 1 each year determine whether there has been an increase or decrease in the cost of living as provided in this section (adjustments made accordingly)
- Resolution 80-242 – Adjusting Retirement Benefits
  - **31462**
    - "Final compensation" for service that is temporary, part-time, or seasonal means only 1/3 of total compensation earned for the period of time during which the member rendered the equivalent of 3 years of full-time service.
    - Member may elect that period of time, or else time immediately preceding retirement is to be used.
- Resolution 80-243
  - Return to 3% benefit level at recommendation of Retirement Board

27/August 1980

- Ordinance 3308
  - Institutes cost of living increase to equal the additional percent (up to 5% from 3%) to cover the change and match what retired members would have had

31/May 1982

- Resolution 82-119
  - **31672**
    - Retirement age was set at 55 per this section and 31672.1; this resolution reduces it to 50

34/May 1986

- Resolution 86-110
  - **31721(b)**
    - member may be retired for disability upon the application of the member (or some others on his or her behalf)
  - employee separated on disability may appeal to Retirement Board, which will determine eligibility

35/November 1986

- Ordinance 3632
  - Urgency ordinance to implement **IRS Section 414(h)(2)**
    - Tax treatment: designation by units of government – where any employing unit picks up the contributions, the contributions so picked up shall be treated as employer contributions
- Resolution 86-254
  - Authorizes county to "pick up" member contributions; offset through member salaries
  - In effect until repealed or until employer-paid contributions are no longer excluded from employee gross income under IRS Code
- Resolution 86-255
  - Applies above to judges in the county

38/December 1986 (same as in Nov - 86)

- Board minutes → directs County Counsel to prepare ordinance authorizing sick leave credit to retirement for County employees that become elected officials

41/December 1989

- Resolution 89-003 (RETIREMENT BOARD)
  - **31628**
    - Authorizes Retirement Board to withhold payment of retirement plan contributions for a period not over six months after the date of separation

42/June 1990

- Resolution 90-002
  - Any petition for judicial review of any Retirement Board decision shall be filed not later than the 90<sup>th</sup> day following the date on which the decision becomes final

43/December 1990

- Resolution 90-005\*
  - **31595**

- Provides discretionary authority to the Board of Retirement to establish investment policies for the management of assets of the Mendocino County Employee Retirement Association
- Adopts investment policies concerning allocation, fixed income , stock, and real estate

\*Resolution 92-001 - supersedes 90-005

- Same, but changes the investment allocation percentages and adds International Equities as an investment media

#### 44/January 1992

Additional service credit given – 31641.04<sup>3</sup>

#### 50/September 1994

- Resolution 94-1
  - **31535**
    - Retirement Board has express authority to issue subpoenas and subpoenas duces tecum and to delegate such subpoena authority to its hearing officer or referee
  - Delegates this authority to hearing officer or referee
- Resolution 94-002\*\*
  - Supersedes 94-001 – eliminates restrictions on US Stock Investments

#### 52/April 1996

- Resolution 96-070
  - BOS authorizes issuance of Pension Obligation Bonds for 1996 Debenture
- Resolution 96-212
  - Approves the issuance of the 1996 Debenture; approves of actions taken by officers/employees in relation to *County of Mendocino v. All Persons Interested*

#### 59/May 1998

- Resolution 97-98 – Adds compensation earnable – various
- Resolution 98-147
  - Adopts **31592.4**
    - (Use of Excess Earnings for Retiree Health Insurance excluding employees hired after 1998)
    - (f) this section is not operative unless both the BOS and RB each have a majority vote
  - **31592.2**
    - MCERA may only provide retiree health care subsidies in the event of excess earnings

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<sup>3</sup> Requires dates to be specified by BOS – not included



#### June 199(7/8)

- Resolution 97-98
  - *Ventura County* (CA Supreme Court – 16 Cal.4<sup>th</sup> 483) – mandates that a change in the method for calculating pension benefits for members and their beneficiaries by retirement systems is governed by the County Employees Retirement Law of 1937
    - Uses this decision as a guidepost for altering definitions for "compensation earnable" and "final compensation"
    - RB retains the right to make future determinations with respect to the retroactive collection of employer and employee retirement contributions

#### 68/June 2001

- Resolution 01-111
  - **31680.2**
    - Allows for retired employee to be employed in a position requiring special skills or knowledge, not to exceed 120 days or 960 hours, whichever is greater in any one fiscal year or 12-month period designated by the BOS

#### 69/January 2002

- Resolution 02-009 (Chief Probation Officer) & Resolution 02-010 (Management Association Safety Members)
  - **31581.2 (adopted and applied to enhanced retirement)**
    - Retirement contributions made by the county shall be credited and accrue to the employee's account, **but do not become a vested interest of said employee**
- Resolution 02-010
  - BOS formally approves the inclusion of improved retirement in the MCLEMA retirement compensation
- Resolution 02-018
  - 31676.12
    - Allows for 2% at age 57 retirement formula to extend to Confidential Employees Association; Association of Appointed Department Heads; Management Association; along with underrepresented management employees and elected officials (all of whom must not be covered by Safety Requirement)

#### 72/February 2002

- Resolution 02-021
  - Makes 3% at 55 effective and reapplies 31581.2 (see above)
  - County adjusts retirement contribution rates to reflect the Cost of Living Adjustment (COLA) as recommended by the retirement system actuary (no sharing of COLA costs among county general members and Mendocino County Law Enforcement Management Association (MCLEMA) safety members)
- Resolution 02-038
  - Applies 31581.2 – effective for safety members
- Resolution 02-039

- Makes **31469.4** and **31664** effective
  - 30 year schedule for service – applies to listed nine safety officers

#### 76/April 2002

- Resolution 02-071
  - 3% at 55 Safety Retirement Formula enacted

#### 78/December 2002

- Resolution 02-275
  - 2002 Debenture Bonds to refund the 2002 debenture

#### 79/October 2003

- Resolution 10-03
  - Applies **31676.12** ( 2% at 57 retirement formula) to Public Safety Dispatcher, Public Safety Dispatcher Supervisor , and Evidence Technician (used to Adjust DSA MOU in 03-226)

#### 81/NOVEMBER 2005

- **Meeting minutes – discusses scope of authority and role of MC Ret. Bd.**

#### 82/November 2006

- Resolution 06-213
  - Applies and makes operative **31780.2** (payment of death benefits to domestic partners)

#### 83/March 2007

- Resolution 07-055
  - BOS adopts recommendations from independence report:
    - BOS/RB to establish liaison committee for exchange information and consultation prior to the RB taking final actions with regards to the salary range of the Retirement Administrator
    - Develop job description for RA and determine scope of position
    - RB must issue comprehensive annual report that includes all necessary financial information re: MCERA (Statement of Plan Net Assets; Statement of Changes in Plan Net Assets; Notes to the Basic Financial Statements; Required Supplementary Schedules and Other Supp. Schedules as outlined by Govt Finance Officers Assoc. (GFOA))
    - RA must commence complete review of bylaws, policies and procedures to ensure compliance with **31522.2** (also made operative in MC)
    - *RB, with assistance of RA, engages an independent consultant to perform and Asset Allocation Study to determine the future course of MCERA investments*

#### 84/September 2009

- Resolution 09-218 supersedes 98-147 –surplus earnings to transfer to County advance reserves for purpose of paying health care costs

86/November 2009

- Signatory authority for RB given to: RA (primary signatory unless a Bd signature is needed); Chair of Board; and Vice Chair (in the absence of the chair)

87/June 2010 Interest Crediting & Undistributed Earnings Policy

- RB authority governed by 31591 and 31592 (plus other state/federal law that applies to MCERA)
- Available earnings of MCERA not to exceed ½ of actuarial assumed earnings rate for that fiscal year

May 2001

- County elects to be subject to **Government Code 31625.3** (provides that employees with 30+ years of qualifying service credit will not have employee contributions deducted from his or her salary)
  - This section is the "optional benefit" →

January 1, 2018

- BOS may require members to pay 50% of the normal cost (subject to meet and confer/mandatory impasse procedures) – BUT likely not 30+ members

**GOV. CODE SECTION 23026 → SALARY BENEFIT INCREASE SHALL NOT HAVE A NEGATIVE IMPACT ON THE FUNDING STATUS OF THE MENDOCINO COUNTY EMPLOYEES RETIREMENT ASSOCIATION**

In any county which has established a county employees' retirement system pursuant to the County Employees Retirement Law of 1937 . . . , the board of supervisors shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and nonrepresented employees. Notice of any salary or benefit increase shall be included on the agenda for the meeting as an item of business in compliance with the requirements of Section 54954.2. Notice shall occur prior to the adoption of the salary or benefit increase, and shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees' retirement system.

The board of retirement, or board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized, consistent with its fiduciary duties, to have an enrolled actuary prepare an estimate of the actuarial impact of the salary or benefit increase. The actuarial data shall be reported to the board of supervisors.

Nothing in this section shall be construed to limit or lessen the requirement imposed by Section 7507 that the costs associated with increases in public retirement plan benefits be determined by an enrolled actuary and publicly disclosed two weeks prior to an adoption of the increase in public retirement plan benefits.

**1996 Debenture mentioned in 78 → to the 2002 Debenture (through July 1, 2027)**  
**(See Govt Code section 31595)**

MCERA/31625.3/PEPRA

- *County does not need to pay employee portion, only employer portion of member contribution → employee contribution is added to the unfunded actuarial accrued liability (UALL – "pension liability")*
  - (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.

Cal. Gov't Code § 31625.3

**Conclusion:** While it appears from the available information that State-mandated procedures were followed in all decisions of the Board of Supervisors and the Board of Retirement, there is less clarity in the two areas as described in the footnotes above. Regarding those, the supporting documents have not been located, and would require additional research.

However, in response to the first item regarding the impact of salary increases to the funded status of the Association, we can offer the following context. Each year MCERA has an actuarial report prepared, which establishes recommended contribution rates for the following year. This study includes projections for compensation increases based on the County's prior history and local government trends. These projections are entirely independent of any on-going negotiations that the County may be involved in with employee unions. The practice of the current administration during negotiations is to verify with the MCERA actuary that the Board of Supervisor's compensation adjustment proposal is consistent with the projections made in the most recent report. If they are consistent, there is no anticipated negative impact to the unfunded pension liability. If the Board chose to offer a compensation package that exceeded the actuarial assumptions, further analysis to determine any impact would be required.