

Article 4: City Employees' Retirement System

**Division 15: Investment Earnings,
Supplemental Benefits and Adjustments**
*("Investment Earnings, Supplemental Benefits
and Adjustments" added 1-11-1999 by O-18608 N.S.)*

§24.1501 Investment Earnings Received

Investment Earnings Received shall be determined on a cash basis, except that Investment Earnings Received shall be increased or decreased by the amount of the annual amortization of purchase discounts or premiums on interest-bearing investments earned in accordance with generally accepted accounting principles for financial reporting purposes. No subsequent changes in the method of accounting for the Retirement System shall affect the determination of Investment Earnings Received. Surplus Undistributed Earnings shall be determined by the City Auditor and Comptroller in accordance with this Section and shall be certified by the City's independent public accountant.

("Investment Earnings Received" added 1-11-1999 by O-18608 N.S.)

§24.1502 Surplus Undistributed Earnings

- (a) Surplus Undistributed Earnings are comprised of Investment Earnings Received for the previous fiscal year, less:
 - (1) An amount sufficient to credit interest to the contribution accounts of the Members, City and the Unified Port District at an interest rate determined by the Board and distributed in accordance with Section 24.0904 and related Board rules; and
 - (2) An amount sufficient to meet the budgeted expenses and costs of operating the System including all personnel and services for the fiscal year; and
 - (3) An amount necessary to maintain such reserves as the Board deems appropriate on advice of its investment counselor and/or Actuary; and
 - (4) An amount sufficient to credit Unified Port District ("UPD") with a proportional share of Surplus Undistributed Earnings as defined in this Section; and

- (5) An amount, (the Division 12 amount), appropriate to provide health benefits to Health Eligible and Non Health Eligible Retirees as provided in Division 12 for the next fiscal year provided:
 - (A) in the next fiscal year, the City contributes to the 401(h) Fund no less than an equal amount which is designated to be used for retiree health benefits to be paid or reimbursed in the next fiscal year; and,
 - (B) to the extent the City makes a contribution to the 401(h) Fund for the next fiscal year, the Division 12 amount shall be treated as a portion of normal employer contributions paid to the Retirement System when the City so designates in accordance with Section 24.1203(b)(5); and
- (6) An amount sufficient to provide necessary funds to pay an annual supplemental benefit to Qualified Retirees, pursuant to the provisions and conditions set forth in Section 24.1503. If, at the time of the annual determination, the amount provided for the supplemental benefits is less than \$100,000, no supplemental benefits will be paid in that fiscal year and the monies will be placed in a special reserve and be carried forward to ensuing years until such time as the amount to be provided for this benefit from ensuing Surplus Undistributed Earnings and the special reserve is \$100,000 or more; and
- (7) An amount sufficient to increase the Base Retirement Benefit by 7% for all retired City employees and Beneficiaries who are covered by the Corbett Settlement.
 - (A) The right to receive this increase each year will accrue monthly. But, the increase will be paid annually when the Annual Supplemental Benefit (13th check) is normally distributed. The increase will be paid, on a prorated basis, to the Beneficiary or estate of any retiree who dies during the fiscal year but before the annual payment is made.
 - (B) To the extent this increase is not paid in any year because there are insufficient Surplus Undistributed Earnings, the liability for this increase will be carried forward as a contingent liability which will be paid in future years in which there are sufficient surplus Undistributed Earnings to pay for the increase.

- (C) Liabilities carried forward will be paid in the order in which they accrued.
- (8) An amount sufficient to credit interest to the reserves created for Supplemental COLA and Employee Contributions as set forth in this Division.
- (b) At the beginning of each fiscal year, the Board will credit all Surplus Undistributed Earnings to the Reserve for Employer Contributions, for the sole and exclusive purpose of reducing Retirement System liability.
(Amended 4-2-2002 by O-19043 N.S.)

§24.1503 Annual Supplemental Benefit - Qualification and Determination

The purpose and intent of this section is to provide necessary guidelines for effectuating the payment of annual supplemental benefits set forth in Section 24.1502(a)(6), by (a) identifying and defining those retirees qualified to receive such benefit, and (b) establishing a method for determining the amount of the annual supplemental benefit.

- (a) For the purpose of identifying those retirees who shall be deemed qualified to receive the annual supplemental benefit established in this Section, the following criteria shall apply:
 - (1) The retiree must have completed a minimum of ten (10) years Creditable Service as a Member of the System in order to be qualified;
 - (2) The retiree must be on the retirement payroll for the month of October of any year in which benefits are to be paid except as provided otherwise in Section 3 of this ordinance for the first year's distribution;
 - (3) Qualified Retirees shall be limited to the following classes:
 - (A) Retired General and Safety Members;
 - (B) Retired Unified Port District Members; and
 - (C) Special Class Safety Members who are receiving fixed monthly retirement benefits; and
 - (D) Survivors of (a), (b) and (c) above receiving monthly pensions from the system, provided such members had met the

minimum continuous service requirement in subsection (a)(1) above.

- (4) Legislative and Special Class Safety Members who are receiving fluctuating monthly retirement benefits, and the survivors of both classes shall not be eligible for participation in the annual supplemental benefit program established by this Article.
 - (5) For the sole purpose of establishing eligibility for the Supplemental COLA described in Section 24.1504, Qualified Retirees may include those retirees with less than ten (10) years creditable service, including those who are receiving an industrial disability retirement from the System, those who have (10) years of continuous service with the System, survivors of Special Class Safety Members who are receiving fluctuating monthly retirement benefits, and survivors of special death benefit recipients.
- (b) For the purpose of determining the amount of the supplemental benefit payment to Qualified Retirees, the following process shall apply:
- (1) The Retirement Administrator each year shall identify all Qualified Retirees on the retirement payroll for the month of October.
 - (2) The Retirement Administrator shall then determine the number of years of creditable service possessed by each Qualified Retiree identified in 1. above.
 - (3) The number of creditable years for all Qualified Retirees shall be added together to determine the total sum of Qualified creditable years.
 - (4) The total sum of qualified creditable years shall then be divided into the total of Surplus Undistributed Earnings designated for distribution by the Board pursuant to Section 24.1502(a)(6) of this Section to arrive at a per annum dollar value for each creditable year; provided, however, that in no event shall the per annum dollar value exceed \$30 (thirty dollars) except for those General Members who retired between January 8, 1982 and June 30, 1985, who shall be entitled to a per annum value not to exceed \$45 (forty-five dollars). Notwithstanding the preceding paragraph, and effective Fiscal Year 1997, Qualified Retirees who retired on or before October 6, 1980, but after December 31, 1971, will receive \$60 (sixty dollars) per year of service and Qualified Retirees who retired on or before December 31, 1971, will

receive \$75 (seventy-five dollars) per year of service.

- (5) The per annum dollar value shall then be multiplied by each Qualified Retiree's creditable service to determine the annual supplemental benefit to be paid each Qualified Retiree the following November.
 - (6) Except as provided in Section 24.1503(b)(7), the supplemental benefits of survivors of deceased Qualified Retirees, as defined in Section 24.1503(a), shall be determined in the same ratio as their monthly benefits bear to the monthly benefit received by their respective deceased retired spouses.
 - (7) The supplemental benefit of a survivor of a Qualified Special Class Safety Retiree shall be determined by allocating to the surviving spouse fifty percent (50%) of the qualified creditable years issued to the deceased Member.
- (c) The Board, with the cooperation and approval of the City Auditor and Comptroller, shall promulgate necessary rules to effectuate the provisions and intent of this Article.

(Amended 9-12-2000 by O-18839 N.S.; amended 12-5-2000 by O-18900 N.S., effective 10-12-2000.)

§24.1503.1 Prohibition of Annual Supplemental Benefit

Members hired or assuming office on or after July 1, 2005, shall not be eligible for participation in the annual supplemental benefit program established by this Article. (*"Prohibition of Annual Supplemental Benefit" added 1-17-2007 by O-19567 N.S.; effective 2-16-2007.*)

§24.1504 Supplemental COLA Program

The purpose of the Supplemental COLA Program is to increase the retirement benefit of certain Qualified Retirees as defined in Section 24.1503 by an amount sufficient to insure that their benefit as of July 1, 1998, when combined with their Annual Supplemental Benefit as defined in Section 24.1503, is at a level equivalent to seventy-five percent (75%) of the present value of their Base Retirement Benefit. The amount of increase under this Section, however, shall not exceed fifty percent (50%) of the Qualified Retiree's benefit in effect as of July 1, 1998.

For purposes of this section, the Base Retirement Benefit is the full monthly Retirement Allowance received upon retirement. The benefit in effect in July 1, 1998, is the benefit as defined in Section 24.0402, Section 24.0403 or Section 24.0405, as adjusted by both the Cost of Living Adjustment defined in Section 24.1505 and the Annual Supplemental Benefit, defined in Section 24.1503.

- (a) Participation in the Supplemental COLA Program shall be limited to Qualified Retirees as defined in Section 24.1503 or their survivors, including special death benefit recipients, who:
 - (1) Retired on or before June 30, 1982; and (2) Received a retirement allowance on July 1, 1998, which, as determined by the System's Actuary, was at a level less than the equivalent of 75% of the present value of their Base Retirement Benefit when combined with their Annual Supplemental Benefit as defined in Section 24.1503.
- (b) The amount to be paid as the Supplemental COLA benefit shall be calculated in accordance with the following procedures:
 - (1) The System's Actuary shall determine the factor necessary to calculate the equivalent of 75% of the present value of the Qualified Retiree's Base Retirement Benefit. This calculation shall be based on the Cost of Living Index as shown by the Bureau of Labor Statistics Consumer Price Index, United States - All items, for each applicable Fiscal Year.
 - (2) The above factor shall be multiplied times the Qualified Retiree's benefit in effect July 1, 1998, as defined above, but not including the Annual Supplemental Benefit, to determine the amount of the increase required under the Supplemental COLA Program.
 - (3) The amount of the increase to the Qualified Retiree's Base Retirement Benefit under the Supplemental COLA Program shall not exceed 50% of the Qualified Retiree's benefit in effect as of July 1, 1998.
 - (4) The payment for the increase to the Qualified Retiree's Base Retirement Benefit under the Supplemental COLA Program shall start in January , 1999, retroactive to July 1, 1998, with an amount for the months of July through December 1998 added to an increased January Retirement Allowance, and then monthly thereafter.
 - (5) The increase to the Qualified Retiree's Base Retirement Benefit calculated under the Supplemental COLA Program shall be paid to the Qualified Retiree or his or her survivor for life or until the Reserve established to pay this supplemental benefit is depleted.
 - (6) The Qualified Retiree's Retirement Allowance as increased by the Supplemental COLA Program shall be adjusted each July 1 thereafter in accordance with Sections 24.1505 and 24.1506.
- (c) A reserve created by the Board pursuant to Section 24.1502(a)(3) shall be used to pay for the Supplemental COLA benefit as follows:

- (1) The Reserve shall be credited with thirty-five million dollars (\$35,000,000) from Undistributed Earnings for the Fiscal Year ending June 30, 1998.
 - (2) Benefit payments under the Supplemental COLA Program shall be accounted for separately and charged against this Reserve.
 - (3) The Reserve shall be credit with interest annually, if sufficient funds are available, in accordance with Section 24.1502(a)(7).
 - (4) Benefit payments under the Supplemental COLA Program shall cease at such time as the Reserve is depleted.
- (d) Reevaluation.
- (1) The System's Actuary shall conduct an annual evaluation of the Reserve to determine the feasibility of expanding the Supplemental COLA Program to including additional retirees and their survivors, additional Funds in the Reserve or the recalculation of benefits annually.
 - (2) Prior to April 30th of each Fiscal Year, representatives of the City Manager's office, the Retirement Administrator, and representatives of eligible retired member of CERS, may meet to consider any recalculation of benefits, any increase in the number of Qualified Retirees or their survivors, or any increase in the Reserve created to pay the Supplemental COLA benefit. The factors for consideration are:
 - (A) The status of benefits of those retirees previously set at the 75% level;
 - (B) The status of benefits of those retirees previously capped at the 50% increase level;
 - (C) The status of retirees not previously eligible for the Supplemental COLA Program who now meet the necessary criteria;
 - (D) The amount of Surplus Undistributed Earnings available to provide such additional benefits;

- (E) The amount of the Annual Supplemental Benefit to be combined with the benefit in effect July 1, 1999, or as part of the Base Retirement Benefit.

(Amended 9-12-2000 by O-18839 N.S.)

§24.1505 Cost of Living Adjustment Effective Date and Maximum Annual Change

- (a) The Board shall before July 1, 1971 and before each July 1 thereafter determine whether there has been an increase or decrease in the cost of living as provided in this section. Excepting those special class safety members whose retirement allowances are based upon 1/2 the amount of the current salary of their retired rank, every person receiving a monthly retirement allowance from this system on June 30, 1971 and each June 30 thereafter shall, on and/or effective July 1, 1971 and each July 1 thereafter, have his or her monthly retirement allowance then being received increased or decreased by that percentage determined by the Board to approximate the nearest 1/10th of one percent of the percentage of annual increase or decrease in the cost of living which has occurred between the two previous January firsts, as shown by the Bureau of Labor Statistics Consumer Price Index, United States--All items. Such change, however, shall not exceed 2.0% per year and no decrease shall reduce the monthly retirement allowance below the amount being received by any person on the effective date of his or her retirement or the effective date of the application of this section, whichever is later. The amount of any cost of living increase or decrease in any year which is not met by the maximum annual change of 2.0% in allowances shall be accumulated to be met by increase or decreases in allowances in future years.
- (b) The allowance of all persons who retired from the 1981 Plan shall be adjusted each July 1, following the third anniversary of the commencement of the allowance. The adjustment shall be equal to 50% of the change in the all Urban Consumer Price Index for the San Diego area — all items, except that such adjustment shall not exceed 10% annually. No adjustment shall reduce the allowance below the amount originally granted.

(Renumbered from Sec. 24.0531 on 1-11-1999 by O-18608 N.S.; Section 24.0531 repealed and reenacted into Sec. 24.1505 on 1-11-1999 by O-18608 N.S.)

§24.1506 Cost of Living Adjustment Program Shared Between Employer and Members

- (a) The cost of any anticipated cost of living increase in allowances which is based upon services rendered after July 1, 1971, shall be shared equally between the employer and the contributing Member, with the individual member's contributions based upon his or her age at his or her nearest birthday at time of entrance into the Retirement System.

- (b) Commencing July 1, 1971, and until adjusted by the Board upon the recommendation of the Actuary, the contribution requirements of Members as contained in Sections 24.0202 and 24.0302, respectively, plus surviving spouse contributions as contained in Section 24.0521, shall be increased by 15%. In addition, the contribution requirement for those Members specified therein who are active members on or after June 30, 1985, shall be increased by 20%. These “cost of living contributions” will be separately totaled upon the retirement of Members after July 1, 1971.
(Renumbered from Sec. 24.0532 on 1-11-1999 by O-18608 N.S.; Section 24.0532 repealed and reenacted into Sec. 24.1506 on 1-11-1999 by O-18608 N.S.)

§24.1507 Employee Contribution Rate Reserve

- (a) The Retirement Board created a reserve under section 24.1502(a)(3) to pay a portion of employee contributions (the “Employee Contribution Rate Reserve”).
- (b) The Employee Contribution Rate Reserve was created with \$35,000,000 from Undistributed Earnings for the fiscal year that ended June 30, 1997.
- (c) The Employee Contribution Rate Reserve will be credited with interest annually, if sufficient funds are available, in accordance with section 24.1502(a)(7).
- (d) The monies in the Employee Contribution Rate Reserve are not counted as part of System assets in the annual actuarial valuation.
- (e) The Auditor and Comptroller will certify annually the amount of the anticipated City Payroll for the next fiscal year. Based upon this certification, at the beginning of each fiscal year, the Auditor will transfer an amount equal to .65% of the total City payroll from the Employee Contribution Rate Reserve to the Employer Contributions Reserve.
- (f) On a biweekly basis, based upon actual biweekly payroll, the Auditor will transfer from the Employee Contribution Rate Reserve to the Employer Contributions Reserve:
 - (1) an amount equal to 1.7% of the City payroll for Safety Members, starting at the beginning of the first full pay period after July 1, 2002,

- (2) an amount equal to 1.6% of the City payroll for General Members, starting at the beginning of the first full pay period after July 1, 2003, and
 - (3) an amount equal to 1% of the City payroll for fire department and lifeguard employees who are Safety Members, starting at the beginning of the first full pay period after July 1, 2003.
- (g) The amounts listed in sections 24.1507(e) and 24.1507(f) are cumulative.
 - (h) All transfers under section 24.1507 will be accounted for separately.
 - (i) Transfers under section 24.1507 will continue as long as there are sufficient funds remaining in the reserve.

(Retitled from "Adjustments to Employee Contribution" and amended 11-18-2002 by O-19121 N.S.)