

## 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 Elimination of "Surplus Earnings"

It is the intent of this Division that the concept of "Surplus Earnings" be eliminated, that payments previously made from "Surplus Earnings" be made instead from plan assets, and that liabilities associated with any benefit transfers from system assets be reflected in the system's liabilities and included in the actuarial calculation of the Annual Required City Contribution.

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

*(Repealed "Investment Earnings Received" and added "Elimination of Surplus Earnings" 9-11-2008 by O-19781 N.S.; effective 10-11-2008.)*

#### §24.1502 Transfers Made From Plan Assets

The following amounts shall be transferred as set forth below from plan assets as determined by the *Board*:

- (a) An amount sufficient to credit interest to the contribution accounts of the *Members* and the *City* at an interest rate determined by the *Board* and distributed in accordance with section 24.0904 and related *Board* rules; and
- (b) An amount sufficient to meet the *City's* portion of the budgeted expenses and costs of operating the *System*, including all personnel and services for the fiscal year.
- (c) An amount sufficient to pay the Annual Supplemental Benefit (13th Check) to *Qualified Retirees*, pursuant to the provisions and conditions set forth in section 24.1503.
- (d) 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, pursuant to the provisions and conditions set forth in section 24.1503.5.

*(Amended 4-2-2002 by O-19043 N.S.)*

*(Repealed Subsection (a)(5) of Section 24.1502 on 4-28-2008 by O-19740 N.S.; effective 5-28-2008.)*

*(Repealed "Surplus Undistributed Earnings" and added "Transfers Made From Plan Assets" 9-11-2008 by O-19781 N.S.; effective 10-11-2008.)  
(Amended 7-20-2012 by O-20181 N.S.; effective 8-19-2012.)  
(Amended 8-5-2013 by O-20282 N.S.; effective 9-4-2013.)*

### **§24.1503      Annual Supplemental Benefit (13<sup>th</sup> Check)-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)(3), 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 Members* and *Safety Members*; and
    - (B) Special Class *Safety Members* who are receiving fixed monthly retirement benefits; and
    - (C) Survivors of section 24.1503(a)(3), subparagraphs (A) and (B), who are receiving monthly pensions from the *System*, provided the *Member* had met the minimum *Creditable Service* requirement in section 24.1503(a)(1).

- (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* includes retirees with less than ten years of *Creditable Service*, including retirees who are receiving an industrial disability retirement from the *System*, those who have ten 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 product of a formula that consists of investment earnings received less the sum of the amounts specified in Section 24.1502 (a)(1) and (a)(2) 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.
  - (8) If, at the time of the annual determination, the amount determined by the formula as set forth in Section 24.1503(b)(4) is less than \$100,000, no supplemental benefits will be paid in that fiscal year and the amount determined by the formula in Section 24.1503(b)(4) will be carried forward to ensuing years until such time as the amount to be provided for this benefit as determined by the formula set forth in Section 24.1503(b)(4) for that year and the amount carried forward from prior years is \$100,000 or more.
- (c) The Board 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.)*

*(Retitled from "Annual Supplemental Benefit - Qualification and Determination" to "Annual Supplemental Benefit (13<sup>th</sup> Check)-Qualification and Determination" and amended 9-11-2008 by O-19781 N.S; effective 10-11-2008.)*

*(Amended 7-20-2012 by O-20181 N.S.; effective 8-19-2012.)*

#### **§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.)*

#### §24.1503.5 Corbett Settlement Increase-Qualification and Determination

The right to receive the Corbett Settlement Increase set forth in Section 24.1502 (a)(4) will accrue monthly. But, the increase will be paid annually when the Annual Supplemental Benefit (13<sup>th</sup> 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. The Corbett Settlement Increase will not be paid in any year in which the Annual Supplemental Benefit (13<sup>th</sup> Check) is not paid, but the liability for the increase will be carried forward as a contingent liability that will be paid when the Annual Supplemental Benefit is again paid.

*(“Corbett Settlement Increase-Qualification and Determination” added 9-11-2008 by O-19781 N.S; effective 10-11-2008.)*

#### §24.1504 Supplemental COLA Program

The Supplemental COLA Program was created to increase the retirement benefits of certain *Qualified Retirees* as defined in section 24.1503 by an amount sufficient to ensure that an eligible *Qualified Retiree’s* total retirement benefit on July 1, 1998, including Cost of Living Adjustments and the Annual Supplemental Benefit as defined in section 24.1503, was equal to 75% of the present value (as of July 1, 1998) of the retiree’s *Base Retirement Benefit* at retirement. The amount of increase could not, however, exceed 50% of the *Qualified Retiree’s* total retirement benefit as of July 1, 1998. For purposes of this section, “*Base Retirement Benefit*” means the *Qualified Retiree’s Base Retirement Benefit* on the date of his or her retirement. The “Benefit in Effect on July 1, 1998” means the *Qualified Retiree’s* retirement allowance on July 1, 1998, as defined in Division 4 of this Article, as adjusted by both the Cost of Living Adjustment defined in section 24.1505 and the Annual Supplemental Benefit.

- (a) Participation in the Supplemental COLA Program is limited to *Qualified Retirees* as defined in section 24.1503 and 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 less than 75% of the present value (as of July 1, 1998) of their *Base Retirement Benefit* when combined with their Annual Supplemental Benefit.

- (b) The Supplemental COLA benefit increases were calculated as follows:
- (1) The *System's Actuary* determined the factor necessary to calculate 75% of the present value (on July 1, 1998) of the *Qualified Retiree's Base Retirement Benefit*. This calculation was 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 was multiplied by the eligible *Qualified Retiree's* Benefit in Effect on July 1, 1998, to arrive at the amount of the increase required under the Supplemental COLA Program (the Supplemental COLA increase).
  - (3) The Supplemental COLA increase could not exceed 50% of an eligible *Qualified Retiree's* Benefit in Effect on July 1, 1998.
  - (4) The *System* began paying the Supplemental COLA benefit in January 1999, retroactive to July 1, 1998, and then monthly thereafter, with an amount for the months of July through December 1998 added to the January 1999 Retirement Allowances.
- (c) The Supplemental COLA benefit is paid to each eligible *Qualified Retiree* for life, and then to his or her survivor for life, except as set forth in subsections (d) and (e). The *Qualified Retiree's* Retirement Allowance, as increased by the Supplemental COLA, is adjusted each July 1 by the Cost of Living Adjustment, in accordance with section 24.1505.
- (d) Payment of the Supplemental COLA benefit is limited to the Available Benefit Amount determined as follows:
- (1) The initial Available Benefit Amount as of June 30, 1998 was \$35 million.
  - (2) Benefit payments under the Supplemental COLA Program are accounted for separately and charged against this Available Benefit Amount.
  - (3) From its inception, the Available Benefit Amount was credited with interest annually, when the total of the amounts transferred pursuant to sections 24.1502(a)(1), (2), (3), and (4) were less than investment earnings received in that year, in accordance with section 24.0904 and related *Board* rules. The *System* will not credit interest to the Available Benefit Amount after June 30, 2013.

- (4) Benefit payments under the Supplemental COLA Program end when the Available Benefit Amount is depleted, except as provided in section (e).
- (e) Once the Available Benefit Amount is depleted, the Supplemental COLA benefit will not be paid from any other *System* assets. Instead, each year, as part of the annual budget process, the City will determine whether to appropriate and transfer to the *System* the funds necessary to pay the Supplemental COLA benefit for the following fiscal year. The *Retirement System* will continue to pay the Supplemental COLA benefit from the funds the City transfers to the *System* for this purpose. When the Available Benefit Amount is depleted, the Supplemental COLA benefit will not be paid in any month in which the City has not provided enough funds to pay the benefit.

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

*(Amended 9-11-2008 by O-19781 N.S.; effective 10-11-2008.)*

*(Amended 8-5-2013 by O-20282 N.S.; effective 9-4-2013.)*

#### **§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**

The cost of providing the Cost of Living Adjustments set forth in section 24.1505 based upon services rendered after July 1, 1971, is shared equally between the *City* and the contributing *Member*, with the individual *Member's* contributions based upon the *Member's* age at his or her nearest birthday at time of entrance into the *System*.

*(Renumbered from Section. 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.)*

*(Amended 7-20-2012 by O-20181 N.S.; effective 8-19-2012.)*

**§ 24.1507 Cost of Living Annuity Contributions and Cost of Living Annuity**

- (a) Each *Member* must pay *Cost of Living Annuity Contributions*, in addition to their *Normal Contributions* and their *Surviving Spouse Contributions*. From July 1, 1971 through June 29, 1985, these *Cost of Living Annuity Contributions* are 15% of the sum of the *Member's Normal Contributions* plus the *Member's Surviving Spouse Contributions*. Beginning June 30, 1985, and continuing until adjusted by the *Board* upon the recommendation of the *Actuary*, the *Cost of Living Annuity Contributions* are 20% of the sum of the *Member's Normal Contributions* plus the *Member's Surviving Spouse Contributions*.
- (b) Upon retirement, the *System* will pay a *Cost of Living Annuity* to *Members* who have made *Cost of Living Annuity Contributions*. The *Cost of Living Annuity* will be actuarially equivalent to the *Member's* accumulated *Cost of Living Annuity Contributions* on the date of the *Member's* retirement.
- (c) Notwithstanding subsection (a), *Safety Members* represented by the San Diego Police Officers Association who initially begin *City* employment after July 31, 2012, will not pay *Cost of Living Annuity Contributions* while they remain represented by the San Diego Police Officers Association, and will not receive a *Cost of Living Annuity* based upon that period of employment.



*(“Cost of Living Annuity Contributions and Cost of Living Annuity” added 7-20-2012 by O-20181 N.S.; effective 8-19-2012 Former Section 24.1507 renumbered to Section 24.1508.)*

**§24.1508 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.

*(Renumbered from former Section 24.1507 on 7-20-2012 by O-20181 N.S.; effective 8-19-2012.)*