



|      |                  |                |              |                 |                  |              |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|
| Home | Bill Information | California Law | Publications | Other Resources | My Subscriptions | My Favorites |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**GOVERNMENT CODE - GOV**

**TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]** ( Title 2 enacted by Stats. 1943, Ch. 134. )

**DIVISION 5. PERSONNEL [18000 - 22980]** ( Division 5 added by Stats. 1945, Ch. 123. )

**PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716]** ( Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2. )

**CHAPTER 13. Retirement Benefits [21250 - 21483]** ( Chapter 13 added by Stats. 1995, Ch. 379, Sec. 2. )

**ARTICLE 3. Cost-of-Living Adjustments [21310 - 21337.1]** ( Article 3 added by Stats. 1995, Ch. 379, Sec. 2. )

**21310.** It is the purpose of the Legislature in enacting this article to provide for the preservation of the purchasing power of benefits under the Public Employees' Retirement Law through a system of adjustments in benefits based on changes in living costs.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21310.5.** The cost-of-living adjustments under Section 415(d) of the Internal Revenue Code to the limits described in Section 415(b) of the Internal Revenue Code, as prescribed by the regulations of the Department of the Treasury of the United States, are hereby incorporated by reference and shall continue to apply after a member's severance from employment or annuity starting date. The amount payable to a member in any limitation year, including any cost-of-living adjustments provided under this article, shall not be greater than the limit applicable under Section 415(b) of the Internal Revenue Code at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the associated regulations.

(Added by Stats. 2009, Ch. 130, Sec. 31. (AB 966) Effective January 1, 2010.)

**21311.** The following definitions shall govern the application of this article:

(a) "Monthly allowance" means any allowance payable monthly to a retired person, a survivor or beneficiary of a member or a retired person, other than a monthly installment of a basic death benefit, the commuted value of an unpaid temporary annuity, or an optional settlement 1, or allowances payable under Article 3 (commencing with Section 21570) of Chapter 14. There shall be excluded from the monthly allowance, for purposes of any adjustment under this article, any portion of the allowance derived from accumulated additional contributions of a member.

(b) "Base allowance" means the amount of monthly allowance that would be payable to the recipient at the time of an annual adjustment under this article had this article not been enacted.

(c) Effective January 1, 1978, "Consumer Price Index" means the United States city average "Consumer Price Index for All Urban Consumers." The "Consumer Price Index" for any period prior to January 1, 1978, means the United States city average consumer price index. Should the reference base of the consumer price indices (presently 1957-59=100) be changed, each of the indices used to determine the consumer price index as defined in this section will be the indices converted to the new base by standard statistical methods.

(d) "Base year" means:

(1) The calendar year 1965 for all members whose retirement occurred prior to January 1, 1966, and for the beneficiaries and survivors of those retired members.

(2) The calendar year of retirement for all members whose retirement occurs after December 31, 1965, and for the beneficiaries and survivors of those members.

(3) The calendar year 1965 for survivors of members whose death occurred before January 1, 1966.

(4) The calendar year in which a member's death occurs for survivors of members whose death occurred before retirement and on or after January 1, 1966.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**21312.** Notwithstanding Section 20481, monthly allowances payable to persons retired under a local system of a contracting agency at the time of contract shall be adjusted in accordance with this article. However, with respect to those retired persons under a contract effective on or after April 1, 1973, the "base year" shall be the year in which the contract is effective. Allowances payable for service to a public agency whose contract is terminated on or after December 1, 1969, shall be adjusted in accordance with this article subject to reduction in accordance with Section 20577. Allowances payable for service to a public agency whose contract was terminated prior to December 1, 1969, shall not be adjusted in accordance with this article.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**21313.** Monthly allowances shall be adjusted annually for time commencing on April 1 and effective with the monthly allowance regularly payable on the first day of May beginning with May 1, 1969. The adjusted monthly allowance shall be equal to the base allowance multiplied by an adjustment factor which is equal to the ratio obtained by dividing the consumer price index for the immediately preceding year by the consumer price index for the recipient's base year. The adjustments shall be subject to the conditions and limits provided in this article.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**21317.** (a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by any section other than Section 21362, as amended by Chapter 96 of the Statutes of 1971, and paid with respect to a local safety member whose retirement for service or nonindustrial death before retirement occurred prior to the date the contracting agency elected to be subject to Section 21362 as so amended, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under the system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.

(d) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

*(Amended by Stats. 2001, Ch. 793, Sec. 22. Effective January 1, 2002.)*

**21318.** (a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by any section other than Section 21362, as amended by Chapter 96 of the Statutes of 1971, and paid with respect to a local safety member whose retirement for service or nonindustrial death before retirement occurred, or who was granted an industrial or nonindustrial disability retirement, prior to the date the contracting agency elected to be subject to Section 21362 as so amended, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.

(d) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Amended by Stats. 2001, Ch. 793, Sec. 23. Effective January 1, 2002.)

**21319.** (a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by a retirement formula applicable to local miscellaneous members who retired prior to July 1, 1971, or to local miscellaneous members who so retired and then were reinstated from retirement and retired again after July 1, 1971, and whose allowance is based upon such a formula and paid with respect to a local miscellaneous member whose retirement or whose initial retirement or death before retirement occurred prior to July 1, 1971, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of the application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) This section shall apply only to the portion of the allowance that is based on service in employment with the employer electing to be subject to this section.

(c) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Amended by Stats. 2001, Ch. 793, Sec. 24. Effective January 1, 2002.)

**21320.** (a) In addition to the increase in allowance authorized by and granted pursuant to Section 21313, and notwithstanding the limitation on such increases imposed by this article, the monthly allowance paid with respect to a state member, other than a school member, who retired or died prior to January 1, 1981, shall be increased by 4 percent.

(b) The 4 percent shall be applied to the allowance payable on July 1, 1981, less the amount of the allowance paid pursuant to Section 21231, and the allowance as so increased shall be paid for time on and after that date and until April 1, 1982. The base allowance shall be the allowance as so increased, less payments pursuant to Section 21231, for annual adjustments effective for time commencing on April 1, 1982.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**21322.** Section 21320 shall apply to any contracting agency that has included the provisions of that section in its contract with the board on or before December 31, 2001.

(Amended by Stats. 2001, Ch. 793, Sec. 25. Effective January 1, 2002.)

**21325.** (a) In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to January 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

| Period during which retirement           |             |
|------------------------------------------|-------------|
| or death occurred:                       | Percentage: |
| On or before December 31, 1965 .....     | 15%         |
| 12 months ending December 31, 1966 ..... | 14%         |
| 12 months ending December 31, 1967 ..... | 13%         |
| 12 months ending December 31, 1968 ..... | 12%         |
| 12 months ending December 31, 1969 ..... | 9%          |
| 12 months ending December 31, 1970 ..... | 6%          |
| 12 months ending December 31, 1971 ..... | 5%          |
| 12 months ending December 31, 1972 ..... | 4%          |
| 12 months ending December 31, 1973 ..... | 3%          |

(b) The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following

the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

(c) This section shall not apply to any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Amended by Stats. 2001, Ch. 793, Sec. 26. Effective January 1, 2002.)

**21326.** (a) In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to July 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

| Period during which retirement<br>or death occurred: |  | Percentage: |
|------------------------------------------------------|--|-------------|
| On or before December 31, 1965 .....                 |  | 7%          |
| 12 months ending December 31, 1966 .....             |  | 6%          |
| 12 months ending December 31, 1967 .....             |  | 5%          |
| 12 months ending December 31, 1968 .....             |  | 4%          |
| 12 months ending December 31, 1969 .....             |  | 3%          |
| 18 months ending June 30, 1971 .....                 |  | 2%          |
| 36 months ending June 30, 1974 .....                 |  | 1%          |

(b) The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

(c) This section shall not apply to any contracting agency unless the agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

(Amended by Stats. 2001, Ch. 793, Sec. 27. Effective January 1, 2002.)

**21327.** In addition to the increase in allowance authorized and granted pursuant to provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, effective January 1, 1980, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state or local member, other than a school member, who retired or died prior to January 1, 1975, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

| Period during which retirement<br>or death occurred | Percentage |
|-----------------------------------------------------|------------|
| 12 months ending December 31, 1967 .....            | 1.51       |
| 12 months ending December 31, 1968 .....            | 1.26       |
| 12 months ending December 31, 1969 .....            | 1.86       |
| 12 months ending December 31, 1970 .....            | 2.55       |
| 6 months ending June 30, 1971 .....                 | 1.91       |
| 6 months ending December 31, 1971 .....             | 7.05       |

|                                          |      |
|------------------------------------------|------|
| 12 months ending December 31, 1972 ..... | 6.76 |
| 12 months ending December 31, 1973 ..... | 4.45 |
| 6 months ending June 30, 1974 .....      | 0.47 |
| 6 months ending December 31, 1974 .....  | 1.31 |

The percentage shall be applied to the allowance payable on January 1, 1980, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after the date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

This section shall not apply to any contracting agency unless the agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

*(Amended by Stats. 2002, Ch. 664, Sec. 105. Effective January 1, 2003.)*

**21328.** (a) In addition to the increase in allowance authorized and granted pursuant to Section 21313, and notwithstanding the limitation on that increase imposed by this article and subdivision (b) of Section 21337 or subdivision (a) of Section 21337.1, effective January 1, 2000, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state, local, or school member who retired or died prior to January 1, 2000, or the date this section becomes applicable to the contracting agency, other than an allowance provided by Article 3 (commencing with Section 21570) of Chapter 14, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

| Period during which retirement or death occurred: | Percentage: |
|---------------------------------------------------|-------------|
| 24 months ending Dec. 31, 1999                    | 0.0%        |
| 12 months ending Dec. 31, 1997                    | 1.0%        |
| 24 months ending Dec. 31, 1996                    | 2.0%        |
| 60 months ending Dec. 31, 1994                    | 3.0%        |
| 60 months ending Dec. 31, 1989                    | 4.0%        |
| 120 months ending Dec. 31, 1984                   | 5.0%        |
| 12 months ending Dec. 31, 1974 or earlier         | 6.0%        |

The percentage shall be applied to the allowance payable on January 1, 2000, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. Notwithstanding Section 21337 or 21337.1 to the contrary, this increase shall not be included in determining the initial monthly allowance upon which a supplemental benefit is payable pursuant to Section 21337 or 21337.1.

(b) This section shall not apply to any contracting agency unless and until the agency elects to be subject to its provisions by amendment to its contract, made in the manner prescribed for approval of contracts, or, in the case of contracts made after the effective date of this section, by an express provision in the contract making the contracting agency subject to the provisions of this section.

*(Amended by Stats. 2001, Ch. 793, Sec. 29. Effective January 1, 2002.)*

**21329.** The adjustments provided by this article are subject to the following limitations:

(a) No adjustment shall be made for any year for which the adjustment is less than 1 percent of the base allowance, and the adjustment for any year shall not exceed 6 percent of the base allowance.

(b) No monthly allowance in any year may exceed an amount equal to the base allowance increased by 2 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which

the adjustment is made.

(c) No monthly allowance in any year shall be less than the base allowance.

(d) No adjustment shall be made in any year in which the actuarial interest rate is less than 4.5 percent.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**21330.** Notwithstanding anything to the contrary in this article, the monthly allowance for service credited under the Second Tier shall be adjusted annually beginning with the second calendar year following retirement for time commencing on April 1 and payable on the first day of May. The adjusted monthly allowance shall be equal to the base allowance increased by 3 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**21331.** An adjustment in a monthly allowance under this article shall be derived from or credited to contributions of the employer, and if the monthly allowance is a retirement allowance the adjustment shall be applied as an increase or decrease, as the case may be, in the current and prior service pensions.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**21335.** Notwithstanding Section 21329, the adjustments in allowances for local members provided by this article for the time commencing on and after the annual adjustment date following the date specified by the contracting agency in its contract shall be subject to the following limitations:

(a) No adjustment shall be made for any year for which the adjustment is less than 1 percent of the base allowance.

(b) No monthly allowance in any year may exceed an amount equal to the base allowance increased by 3, 4, or 5 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made. A contracting agency shall designate the applicable percentage and may amend its contract to increase the percentage.

(c) No monthly allowance in any year shall be less than the base allowance.

(d) No adjustment shall be made in any year in which the actuarial interest rate is less than 5.25 percent.

However, the adjusted allowances in years following the year in which the contract of an agency subject to this section is terminated may not exceed the adjusted allowance in the year of contract termination or the amount determined in accordance with subdivision (b) of Section 21329, whichever is the greater.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

The additional employer contributions required as a result of making this section applicable shall be computed as a level percentage of member compensation. The additional contribution rate required, at the time this section is added to a contract, shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1975, by express provision in the contract making the contracting agency subject to this section.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**21337.** (a) On an annual basis, the board shall transfer funds to separate supplemental state and school accounts, to fund the purchasing power protection allowance of retirees, survivors, and beneficiaries of state or school employers, respectively. The amounts transferred shall be the lesser of the following:

(1) The amount necessary to increase all monthly allowances paid by this system to retirees, survivors, and beneficiaries of state or school employers to 75 percent of the purchasing power of the initial monthly allowances.

(2) One and one-tenth percent of state or school member contributions, as determined by Section 20178.

(b) The funds transferred to the two separate supplemental accounts shall be utilized to increase all monthly allowances paid by this system to retirees, survivors, and beneficiaries of state and school employers, up to a maximum of 75 percent of the purchasing power, as determined by the board, of the initial monthly allowances, notwithstanding the benefit provided by Section 21328, that

were received by every retired state or school member or survivor or beneficiary of a state or school member or retiree who was eligible to receive any allowance at the end of each fiscal year. Funds remaining in the state or school account after the payment of benefits under this section shall be transferred to the respective state or school employer accounts.

(c) Annual adjustments in the purchasing power protection allowance shall be effective with the monthly allowance regularly payable on the first day of May, provided that in the first year after enactment of the act adding this subdivision, the purchasing power protection allowance adjustment to the monthly allowance payable on the first day of May shall also reflect an adjustment for the period from January 1 through April 30. The board shall implement the provisions of this subdivision on or before January 1, 2012, unless the board determines that the implementation tasks cannot be completed until a later date, in which case, the board shall be prepared to implement the provisions of this section no later than July 1, 2013.

*(Amended by Stats. 2017, Ch. 241, Sec. 9. (SB 525) Effective January 1, 2018.)*

**21337.1.** (a) All monthly allowances paid by the system to retirees of contracting public agencies, and to survivors and beneficiaries of members and retirees of those agencies, shall annually be increased to 80 percent of the purchasing power of the initial monthly allowance as determined by the board. Adjustments in the purchasing power protection allowance shall be effective with the monthly allowance regularly payable on the first day of May, provided that, in the first year after enactment of the act amending this subdivision, the purchasing power protection allowance adjustment to the monthly allowance payable on the first day of May shall also reflect an adjustment for the period from January 1 through April 30.

(b) Notwithstanding subdivision (a), retirees of contracting public agencies, and survivors and beneficiaries of members and retirees of those agencies, who receive a monthly allowance payable by this system shall also receive, on or after January 1, 2001, a one-time lump-sum payment in an amount equal to the difference, if any, between the purchasing power protection allowance paid between January 1, 2000, and December 31, 2000, and the purchasing power protection allowance that would have been payable if this section had been operative during that period.

(c) The cost of the increase in allowances paid pursuant to subdivisions (a) and (b) shall be paid from the same assets of the employer used in the determination of each employer contribution rate for each membership classification under which service was credited that affects the allowance calculation of the retirees, survivors, or beneficiaries.

*(Amended by Stats. 2010, Ch. 639, Sec. 6. (SB 1139) Effective January 1, 2011.)*