

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2404**

---

---

**Introduced by Assembly Member Cooley**

February 19, 2016

---

---

An act to amend ~~Section 21455~~ *Sections 21456, 21457, 21459, and 21463* of the Government Code, relating to retirement benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2404, as amended, Cooley. ~~Retirement benefits:—Public Employees' Retirement System:~~ optional settlements.

~~Under existing law, members~~ *Existing law permits a member of the Public Employees' Retirement System may to elect from among several optional settlements, including optional settlement 1 that consists of a retirement allowance for life and the balance of accumulated contributions, if any, paid to the member's beneficiary. settlements for the purpose of structuring his or her retirement allowance, which may result in a reduction of the allowance paid to the member in relation to the payments to his or her beneficiary after the member's death. Existing law includes among these options optional settlement 2, which provides an allowance for life to the member and thereafter to his or her beneficiary, and optional settlement 3, which provides an allowance for life to the member and thereafter 1/2 of his or her allowance to his or her beneficiary. Existing law entitles a member who elected optional settlement 2 and optional settlement 3 to a recalculated, increased allowance if the beneficiary predeceases the member, subject to a specified, sinking percentage. Existing law provides that a member who waives the right for an increased allowance upon the death of the*

*beneficiary, as specified, is not entitled to an increase in his or her allowance, as described above.*

*This bill would provide that the right of a member to receive a recalculated allowance upon the death of his or her beneficiary, as described above, only applies to a member who retires on or before December 31, 2017.*

~~This bill would make nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21456 of the Government Code is  
2 amended to read:

3 21456. Optional settlement 2 consists of the right to have a  
4 retirement allowance paid a member until his or her death and  
5 thereafter to his or her beneficiary for life.

6 If the beneficiary predeceases the member and the member  
7 elected this section to be effective on or after January 1, 1990, the  
8 member’s allowance shall be adjusted effective the first of the  
9 month following the death of the beneficiary, to reflect the benefit  
10 that would have been paid had the member not selected an optional  
11 settlement.

12 If a nonspouse beneficiary waives entitlement to this allowance  
13 and the member elected this section to be effective on or after  
14 January 1, 1993, the member’s allowance shall be adjusted effective  
15 the first of the month following the receipt of the waiver of the  
16 allowance entitlement from the nonspouse beneficiary to reflect  
17 the benefit that would have been paid had the member not selected  
18 an optional settlement.

19 If the marriage of a member is dissolved or annulled or there is  
20 a legal separation between the member and the beneficiary spouse  
21 and the judgment dividing the community property awards the  
22 total interest in this system to the member, and the member elects  
23 this section to be effective on or after January 1, 1994, the  
24 member’s allowance shall be adjusted effective the first of the  
25 month following the filing of the judgment with the board to reflect  
26 the benefit that would have been paid had the member not selected  
27 an optional settlement.

1 If the beneficiary spouse predeceases the member on or after  
 2 January 1, 1990, and the member elected this section to be effective  
 3 prior to January 1, 1990, the member's allowance shall be adjusted  
 4 effective the first of the month following the death of the  
 5 beneficiary spouse to reflect a new allowance as calculated below.

6 If the nonspouse beneficiary waives entitlement to this allowance  
 7 on or after January 1, 1993, and the member elected this section  
 8 to be effective prior to January 1, 1993, the member's allowance  
 9 shall be adjusted, effective the first of the month following receipt  
 10 by the board of the waiver of entitlement from the nonspouse  
 11 beneficiary, to reflect a new allowance as calculated below.

12 If the marriage of a member is dissolved or annulled or there is  
 13 a legal separation between the member and the beneficiary spouse  
 14 and the judgment dividing the community property awards the  
 15 total interest in the retirement system to the member, and the  
 16 member elected this section to be effective prior to January 1,  
 17 1994, the member's allowance shall be adjusted, effective the first  
 18 of the month following the filing of the judgment with the board  
 19 to reflect a new allowance as calculated below. The qualifying  
 20 event shall be the date on which the judgment is filed with the  
 21 board.

22 A percentage factor shall be applied to the difference between  
 23 the member's unmodified allowance and optional settlement 2  
 24 allowance, both of which shall include applicable cost-of-living  
 25 increases. The product of this equation shall then be added to the  
 26 member's optional settlement 2 allowance and the total amount  
 27 shall become the member's base allowance. The percentage factor  
 28 applicable to each member shall be determined by the time between  
 29 the member's retirement effective date and the date of death of  
 30 the beneficiary spouse or by the time between the member's  
 31 retirement effective date and the date of the receipt of either the  
 32 waiver of the allowance entitlement or the judgment of dissolution,  
 33 annulment, or legal separation according to the following table:

35 Period between the member's retirement 36 effective date and the date of the qualifying 37 event	Percentage
38 Less than 12 months	95%
39 12 months through 23 months	85%
40 24 months through 35 months	75%

1	36 months through 47 months	65%
2	48 months through 59 months	55%
3	60 months through 71 months	45%
4	72 months through 83 months	35%
5	84 months through 95 months	25%
6	96 months through 107 months	15%
7	108 months through 119 months	5%
8	120 months or more	0%

9

10 Nothing in this section shall result in additional cost to the  
11 employer.

12 *The right of a member to receive a recalculated allowance upon*  
13 *the death of his or her beneficiary granted pursuant to this section*  
14 *shall apply only to a member who retires on or before December*  
15 *31, 2017.*

16 *SEC. 2. Section 21457 of the Government Code is amended to*  
17 *read:*

18 21457. Optional settlement 3 consists of the right to have a  
19 retirement allowance paid a member until his or her death, and  
20 thereafter to have one-half of his or her retirement allowance paid  
21 to his or her beneficiary for life.

22 If the beneficiary predeceases the member and the member  
23 elected this section to be effective on or after January 1, 1990, the  
24 member's allowance shall be adjusted effective the first of the  
25 month following the death of the beneficiary, to reflect the benefit  
26 that would have been paid had the member not selected an optional  
27 settlement.

28 If the marriage of a member is dissolved or annulled or there is  
29 a legal separation between the member and the beneficiary spouse  
30 and the judgment dividing the community property awards the  
31 total interest in this system to the member, and the member elects  
32 this section to be effective on or after January 1, 1994, the  
33 member's allowance shall be adjusted effective the first of the  
34 month following the filing of the judgment with the board to reflect  
35 the benefit that would have been paid had the member not selected  
36 an optional settlement.

37 If a nonspouse beneficiary waives entitlement to this allowance  
38 and the member elected this section to be effective on or after  
39 January 1, 1993, the member's allowance shall be adjusted,  
40 effective the first of the month following the receipt of the waiver

1 of the allowance entitlement from the nonspouse beneficiary, to  
2 reflect the benefit that would have been paid had the member not  
3 selected an optional settlement.

4 If the beneficiary spouse predeceases the member on or after  
5 January 1, 1990, and the member elected this section to be effective  
6 prior to January 1, 1990, the member's allowance shall be adjusted  
7 effective the first of the month following the death of the  
8 beneficiary spouse to reflect a new allowance as calculated below.

9 If the marriage of a member is dissolved or annulled or there is  
10 a legal separation between the member and the beneficiary spouse  
11 and the judgment dividing the community property awards the  
12 total interest in the retirement system to the member, and the  
13 member elected this section to be effective prior to January 1,  
14 1994, the member's allowance shall be adjusted, effective the first  
15 of the month following the filing of the judgment with the board  
16 to reflect a new allowance as calculated below. The qualifying  
17 event shall be the date on which the judgment is filed with the  
18 board.

19 If the nonspouse beneficiary waives entitlement to this allowance  
20 on or after January 1, 1993, and the member elected this section  
21 to be effective prior to January 1, 1993, the member's allowance  
22 shall be adjusted, effective the first of the month following receipt  
23 by the board of the waiver of entitlement from the nonspouse  
24 beneficiary, to reflect a new allowance as calculated below.

25 A percentage factor shall be applied to the difference between  
26 the member's unmodified allowance and optional settlement 3  
27 allowance, both of which shall include applicable cost-of-living  
28 increases. The product of this equation shall then be added to the  
29 member's optional settlement 3 allowance and the total amount  
30 shall become the member's base allowance. The percentage factor  
31 applicable to each member shall be determined by the time between  
32 the member's retirement effective date and the date of death of  
33 the beneficiary spouse or by the time between the member's  
34 retirement effective date and the date of the receipt of either the  
35 waiver of the allowance entitlement or the judgment of dissolution,  
36 annulment, or legal separation according to the following table:

37		
38	Period between the member's retirement	
39	effective date and the date of the qualifying	
40	event	Percentage

1	Less than 12 months	95%
2	12 months through 23 months	85%
3	24 months through 35 months	75%
4	36 months through 47 months	65%
5	48 months through 59 months	55%
6	60 months through 71 months	45%
7	72 months through 83 months	35%
8	84 months through 95 months	25%
9	96 months through 107 months	15%
10	108 months through 119 months	5%
11	120 months or more	0%

12  
13 Nothing in this section shall result in additional cost to the  
14 employer.

15 *The right of a member to receive a recalculated allowance upon*  
16 *the death of his or her beneficiary granted pursuant to this section*  
17 *shall apply only to a member who retires on or before December*  
18 *31, 2017.*

19 *SEC. 3. Section 21459 of the Government Code is amended to*  
20 *read:*

21 21459. ~~A~~-(a) A member who elects to receive optional  
22 settlement 2 or 3 may concurrently and irrevocably elect to waive  
23 the provision for an increase to his or her allowance due to the  
24 death of his or her beneficiary and shall, instead, have his or her  
25 allowance based upon the waiver of this benefit.

26 (b) *This section shall apply only to a member who retires on or*  
27 *before December 31, 2017.*

28 *SEC. 4. Section 21463 of the Government Code is amended to*  
29 *read:*

30 21463. ~~A~~-(a) A member who elected to receive optional  
31 settlement 2 or 3 and whose beneficiary predeceases him or her,  
32 shall be entitled to receive the increased allowance pursuant to  
33 Section 21456 or Section 21457, as applicable, unless the member  
34 elected to waive the provision for an increase to his or her  
35 allowance pursuant to Section 21459.

36 (b) *This section shall apply only to a member who retires on or*  
37 *before December 31, 2017.*

38 ~~SECTION 1. Section 21455 of the Government Code is~~  
39 ~~amended to read:~~

1     ~~21455. Optional settlement 1 consists of the right to have a~~  
2     ~~retirement allowance paid to the member until his or her death and~~  
3     ~~if the member dies before he or she receives in annuity payments~~  
4     ~~the amount of his or her accumulated contributions at retirement,~~  
5     ~~to have the balance at death paid to his or her beneficiary or estate.~~

O