

REGULATIONS OF THE BOARD OF RETIREMENT, VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ESTABLISHING AN EMPLOYEE-FUNDED ANNUAL COST-OF-LIVING ADJUSTMENT FOR TIER II MEMBERS

The Board of Retirement, Ventura County Employees' Retirement Association, hereby adopts the following regulations.

ARTICLE I – ADMINISTRATIVE PROVISIONS

1.1 TITLE. These regulations shall be known as the “Code of Regulations, Ventura County Employees' Retirement Association,” may be cited as such, and shall be referred to herein as the “regulations.”

1.2 PURPOSE. The Board of Retirement, Ventura County Employees' Retirement Association (“Board”) finds that the purpose of these regulations is to provide a member-funded, annual cost-of-living adjustment benefit for Tier II Members, in accordance with the County Employees Retirement Law of 1937 (hereafter, the “CERL”). It is the Board's intent that individual participation in the Tier II COLA benefit program established by these regulations be governed by the collective bargaining agreements entered into between Tier II Members and their employer. For purposes of these regulations, “Tier II Member” means any general member of the Ventura County retirement system who commenced service after June 29, 1979, who accrues benefits pursuant to Section 31676.1 of the CERL, or Section 7522.20 of the California Public Employees' Pension Reform Act (“PEPRA”), and who does not accrue a cost-of-living adjustment pursuant to article 16.5 of the CERL.

1.3 AUTHORITY. These regulations are adopted pursuant to the authority granted the Board under sections 31525 and 31627 of the CERL to prescribe regulations providing for member-funded additional retirement benefits, subject to the approval of the Ventura County Board of Supervisors.

1.4 SEVERABILITY. If any article, section, subsection, sentence, clause, or phrase of these regulations is for any reason held to be unconstitutional, invalid, or unenforceable, the Board may in its discretion declare these regulations void in their entirety, and/or the Ventura County Board of Supervisors may in its discretion withdraw its approval of the regulations pursuant to Section 31525 of the CERL, which shall cause the regulations to be void. Absent such action, the portion of these regulations not held to be unconstitutional, invalid or unenforceable shall remain in full force and effect.

1.5 EFFECTIVE DATE. These regulations, and any subsequent amendments thereto, shall become effective on the date they are approved by the Ventura County Board of Supervisors, or such earlier date as determined by the Ventura County Board of Supervisors.

1.6 AMENDMENTS. These regulations may be amended by a majority vote of the Board, subject to approval of the Ventura County Board of Supervisors.

ARTICLE II – GENERAL PROVISIONS

2.1 TIER II COLA.

- (a) For each eligible Participant (as defined in Section 2.4 of these regulations) the retirement allowance, optional death allowance, or annual death allowance payable to or on account of the Participant shall, as of April 1 of each year, be increased by an amount equal to 2 percent of the portion of the total retirement allowance or other benefit then being received which is attributable to the period of service during which an election under section 2.3 of these regulations was in effect for such Participant. This 2 percent annual increase is referred to herein as the “Tier II COLA.”
- (b) For eligible participants who receive a disability retirement allowance, the Tier II COLA will be applied as follows:
 - i. Beginning Date:
 - a. At earliest age of eligibility for retirement (age 50 for legacy members; age 52 for PEPRA members), or the employee’s retirement date, whichever is later, if the member has 5 or more years of VCERA service as of the effective date of the disability retirement
 - b. Age 70 of the employee’s retirement date, whichever is later, if the member had less than 5 years of VCERA service as of the effective date of the disability retirement;
 - ii. Amount Eligible for COLA: the portion of the member’s normal service retirement allowance that would have been eligible for a Tier II COLA at earliest age of eligibility for retirement (age 50 for legacy members; age 52 for PEPRA members) or the member’s actual retirement date, whichever is later, had the member retired for service on the date they became entitled to a disability retirement allowance.

2.2 ELIGIBILITY. A Tier II Member is eligible to participate as of (1) the effective date of a collective bargaining agreement that makes the Tier II COLA applicable to the bargaining unit of which the Tier II Member is a member, or (2) if the Tier II Member is not currently in an eligible bargaining unit, the date upon which the Tier II Member becomes a member of a bargaining unit for which such a collective bargaining agreement is in effect. For purposes of these regulations, a resolution

governing the terms and conditions of employment for management, confidential clerical and other unrepresented employees shall be considered a collective bargaining agreement, and the employees subject to such a resolution shall be considered a bargaining unit.

2.3 ELECTION TO PARTICIPATE.

(a) Except as provided in subparagraph (b) below, a collective bargaining agreement that makes the Tier II COLA applicable to employees in the represented bargaining unit shall be deemed an election on behalf of the represented Tier II Members to participate in this Tier II COLA benefit program, and an election by the Tier II Members to pay the member contributions required under section 2.4 of these regulations by payroll deductions, in return for the additional benefits provided hereunder.

(b) Subject to applicable federal tax rules, a collective bargaining agreement may provide that individual Tier II Members have the option to elect or to decline to participate in this Tier II COLA benefit program. Tier II Members subject to such agreements must make their elections in such form and at such times as the Board may prescribe.

(c) An election described in subparagraphs (a) and (b), above, shall be deemed to terminate with respect to a Tier II Member upon (1) the replacement of the collective bargaining agreement that makes the Tier II COLA applicable to the bargaining unit of which the Tier II Member is a member with a new collective bargaining agreement that does not provide for the Tier II COLA, or (2) the date upon which the Tier II Member is no longer a member of a bargaining unit for which such a collective bargaining agreement is in effect. Once an election is deemed to terminate, a new election will be deemed to be made by a Tier II Member each time the conditions described in subparagraphs (a) or (b), above, again occur with respect to such Tier II Member.

2.4 PARTICIPANT CONTRIBUTIONS. An eligible Tier II Member who has elected, or is deemed to have elected, to participate in this Tier II COLA program pursuant to section 2.3 of these regulations shall be referred to as a Participant. In return for the Tier II COLA, each Participant shall be responsible to pay a Tier II COLA contribution determined in accordance with the collective bargaining agreement then in effect for the Participant's bargaining unit. Subject to section 7522.30 of PEPR, and if so provided in the collective bargaining agreement, all or a portion of the Participant's contribution may be "picked up" by the Participant's employer.

2.5 EMPLOYER CONTRIBUTION. The Board shall conduct periodic actuarial analyses of the Tier II COLA in accordance with the CERL. If in any year the aggregate Tier II COLA contributions made by Participants or picked up by an employer in accordance with section 2.4 of these regulations is insufficient to fully fund the Tier II

COLA, as determined by the Board, the Board shall recommend to the Ventura County Board of Supervisors such changes in the assumed rates of interest, Participant contributions and employer contributions as are necessary to fully fund the Tier II COLA.

2.6 PRIOR SERVICE. If so provided in a collective bargaining agreement applicable to a Participant, the Tier II COLA may be applied to a portion of the Participant's retirement allowance attributable to a period of service prior to the effective date of the applicable collective bargaining agreement, including any period of service prior to the effective date of these regulations. The cost of such additional benefit must be paid by the Participant receiving such additional benefit or by the Participant's employer, as provided in the applicable collective bargaining agreement and subject to sections 7522.30 and 7522.44 of PEPRA.

2.7 WITHDRAWALS. Within 30 days prior to retirement, a Participant who has made Tier II COLA contributions in accordance with section 2.4 of these regulations may elect in writing to have all or any part of his or her accumulated Tier II COLA contributions refunded to him or her. For purposes of these regulations, "accumulated Tier II COLA contributions" shall mean an amount equal to (1) the aggregate Tier II COLA contributions paid by a Participant in accordance with section 2.4 of these regulations, plus (2) interest on such contributions calculated at a rate established by the Board pursuant to its policy on crediting member deposits. Any amount withdrawn pursuant to this section 2.7 shall not be included in the calculation of the Participant's Tier II COLA or any other benefit. The Board may order that payment of the withdrawn amount be withheld for a period not to exceed 90 days after receipt of the Participant's written election.