

322-4632

RE: No. LSR 132

June 24, 1976

Mr. Clarence D. Alexander
6200 Gloria Drive
Sacramento, CA 95831

Dear Mr. Alexander:

I apologize for not having answered your questions about the possibility of foregoing part of your monthly allowance under the Legislators' Retirement System prior to this date.

As promised, I did request a legal review of the questions raised and received benefit of opinion from our Staff Counsel that you cannot voluntarily have your retirement allowance reduced.

This conclusion is consonant with the majority rule in other jurisdictions. That rule is that the right to receive a benefit fixed by statute cannot be waived, such waiver being contrary to public policy and void (125 A.L.R. 729).

I hope this is helpful to you.

Very truly yours,

KENNETH G. THOMASON, CHIEF
BENEFITS DIVISION

KGT:cfm

cc: Carl J. Blechinger, Executive Officer

FILE SUMMARY FOR CLARENCE ALEXANDER
SSN 555-05-5175

- 01/06/69 Clarence Alexander is elected by the Legislature to be the Secretary of the Senate
- 03/28/69 Letter from PERS CEO Bill Payne to Senator Scharde on the estimate of the projected costs for SB 473 which would allow the four Statutory Officers of the Legislature optional membership in LRS.
- 06/27/69 Letter to Assemblyman Barnes from Bill Payne regarding the funding for SB 473
- 08/11/69 Letter received from legislator regarding a news paper article about the windfall to C.D. Alexander.
- 08/20/69 Assistant Executive Officer responds to a legislator's constituent complaint on the pending legislation for Legislative Statutory Officers.
- 11/03/69 Letter to C.D. Alexander regarding prior service credit. His cost for such service is \$17,744.33
- 11/05/69 Received LRS membership form from C.D. Alexander. His membership is established as 12/01/69.
- 11/17/69 Received retirement application for C.D. Alexander
- 12/02/69 C.D. Alexander retires from the LRS.
- 12/11/69 C.D. Alexander pays for prior service credit in one lump sum payment of \$17,744.33. Total service amounts to 22.225 years. He completes the Election of Optional Settlement (Opt 2).
- 02/06/73 File notes to ensure that we capture the salary increase for the position of Secretary of the Senate.
- 03/06/73 Memo sent to Fiscal Officer of the Senate to notify us of any increase to the salary of the Secretary of the Senate.
- 06/06/73 Letter to C.D. Alexander informing him of a pension adjustment due to an increase in the salary of his former position.
- 08/27/74 Letter to C.D. Alexander informing him of another increase due to a change in the salary.

- 03/01/76 Letter to C.D. Alexander notifying him of a pension adjustment due to the increase in the incumbent's salary.
- 03/18/76 Memo from Ken Thomason, Benefits Division Chief, to N. Deane Moore, Legal Office regarding C.D. Alexander's request to waive a portion of his retirement allowance since he believed he was receiving more than he thought the Legislature had intended.
- 06/24/76 Response from Ken Thomason to C.D. Alexander informing him that he cannot waive any portion of his retirement allowance.
- 02/17/77 Letter from LRS Manager, Martha Nishi, to C.D. Alexander informing him of a pension adjustment due to the increase in the salary of the Secretary of the Senate.
- 10/26/79 Letter from Martha Nishi to C.D. Alexander notifying him of another adjustment due to a change in salary.
- 10/02/91 File note from RPS. II Harvey Robinson that no adjustments due to salary increases have been done since June 1980.
- 10/09/91 Memo to Mike Ward with Senate Rules requesting all salary increases for the Secretary of the Senate for the previous 20 years.
- 11/19/91 Memo to Steve Phillips, Chief of Post Retirement Services Division regarding the underpayment to C.D. Alexander and the one time payment for the retroactive portion of an adjustment due to the current incumbent's salary. File was returned with no response.

NOTES: The case of C.D. Alexander resurfaced recently when a reporter, K.W. Lee with KCRA TV, called to inquire about former members who had their pensions tied to the salary of the incumbent. All members of the LRS had their pensions linked to the salary of the incumbent until Proposition 57 passed in 1986. However, Proposition 57 failed to include the offices of the Chief Clerk of the Assembly, Secretary of the Senate and the Sergeant at Arms of both houses of the Legislature. Legislation to amend this section of law for these positions to have the retirement allowance based only on final compensation occurred in 1981.

DISTRICT OFFICE
 8025 FOREST AVENUE
 SAN JOSE, CALIFORNIA 95123
 (408) 241-8800

CAPITOL OFFICE
 ROOM 4304
 STATE CAPITOL
 SACRAMENTO 95814
 TEL: AREA CODE 916
 475-4753

EDUCATION
 SUBCOMMITTEE ON
 POSTSECONDARY EDUCATION

Assembly California Legislature

JOHN VASCONCELLOS
ASSEMBLY MEMBER, THIRTY-SECOND DISTRICT

CHAIRMAN
 COMMITTEE ON WAYS AND MEANS

January 28, 1981

TO: John Vasconcellos

FROM: Roward A. Sarason

RE: AB 308 - Legislative's Retirement System Reform

Senator Newton Russell has informed me of his intent to introduce legislation that would prohibit future legislative's statutory officers (four positions: the Chief Clerk in both Houses, the Secretary of the Senate and the Chief Clerk of the Assembly) from electing membership in the legislators retirement system. If that legislation is successful then those four positions would become optional members of the Public Employees' Retirement System as are other legislative staff. Your bill AB 308 provides that the pension payable to new statutory officers would be based on their final salary rather than the salary of the incumbent. Your bill provides for continuation of the legislative statutory officers in the legislative retirement system which would be in conflict with Senator Russell's bill. It is my understanding that Senator Russell is moving ahead with his legislation with the advice and consent of the Senate leadership. Their logic, of which I agree, is that those four employees should be treated as other legislative employees.

It should be noted that the legislative statutory officer provisions were added to the legislative retirement system in 1969 by the Senate. There are only 2 people currently retired under those provisions: Clarence Alexander and Francis T. Beard. Mr. Alexander's pension currently exceeds the incumbents salary by a substantial margin because his pension is based on the incumbents salary plus cost of living from the day he retired. Table I illustrates how the retirees salary can easily exceed the incumbents salary.

Table 1 illustrates (the monthly pension is underlined) the monthly pension that would be payable assuming that the annual salary of an incumbent increases by 10% and inflation increases by 10%. Column 1 indicates the amount of pension that would be payable if the pension was based on the last monthly salary earned of \$4,000. However, because the pension is based on the incumbents salary plus cost of living the actual pension paid is the numbers underlined in columns 2 through 6. Chart 2 compares the benefits payable under the Public Employees' Retirement System versus those under the Legislative retirement system for legislative statutory employees.

As we discussed earlier you may wish to consider amending your bill AB 308 to (1) limit the pension payable to current and retired legislative statutory officers to the incumbents salary or (2) basing their pensions only on the salary earned. This could be done with language similar to that contained in AB 148.

HAS/tv

cc: Senator Newton Russell
Bruce Samuel

1 KAYLA J. GILLAN, GENERAL COUNSEL
2 MAUREEN L. REILLY, SENIOR STAFF COUNSEL, STATE BAR NO. 109395
3 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
4 400 "P" Street, Sacramento, CA 95814
5 P.O. Box 942707, Sacramento, CA 94229-2707
6 Telephone: (916) 558-4097
7 Facsimile: (916) 326-3659

8 Attorneys for Petitioner California
9 Public Employees' Retirement System

10 BOARD OF ADMINISTRATION
11 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

12 In the Matter of the Overpayment
13 and Re-Calculation of Benefits to

14 JAMES DRISCOLL, PATRICIA
15 DRISCOLL and DARRYL WHITE,

16 Respondents,

17 and

18 SENATE RULES COMMITTEE,

19 Respondent.

20 CONSOLIDATED APPEAL

21 CONSOLIDATED CASE NO. 1643
22 OAH NO. 1998050295

23 SETTLEMENT AGREEMENT

24 The Board of Administration (Board) for the California Public Employees'
25 Retirement System (CalPERS),¹ and the individually-named respondents,² have
26 agreed to resolve their dispute in the captioned matter as follows:

27 Overview

28 The captioned matter settled on the record of mediation before Administrative
Law Judge Spencer Joe with the Office of Administrative Hearings (OAH) which was a

¹ In addition to CalPERS, the Board also administers the Legislators' Retirement System (LRS). See Government Code section 9353. All statutory references hereafter are to the Government Code.

² Senate Rules Committee is not a party to this appeal, having failed to appear at the hearing and preceding mediation session that took place on the noticed date of August 5, 1998. Furthermore, the Committee did not appeal this matter, and was named as a nominal respondent.

1 converted proceeding conducted in Sacramento, California on August 5, 1998. This is
2 the date originally noticed for hearing and mediation took place that morning, at the
3 mutual request of LRS and the individually-named respondents. It was understood
4 that if the matter failed to settle by mediation, then the hearing record would open that
5 afternoon.

6 In addition to their names shown in the caption, and for the sole purpose of
7 implementing this Settlement Agreement, the individually-named respondents
8 (hereinafter "parties") may be identified by their Social Security numbers as follows:
9 James Driscoll (SSN 545-36-9469), Patricia Driscoll (SSN 549-38-1480) and Darryl
10 White (SSN 565-50-2295).

11 LRS and the parties reached a full and final resolution of the captioned matter
12 at mediation. (See transcript prepared by OAH on August 7, 1998.) The terms set
13 forth in this Settlement Agreement are only for the purpose of creating a written
14 record. LRS and the parties hereby acknowledge that they are fully bound by these
15 terms as of August 5, 1998.

16 Terms

17 1. LRS agrees to "forgive" the overpayment of retirement benefits that
18 resulted from its incorrect calculation of their cost-of-living adjustments (COLAs).

19 2. The parties agree to a 36-month "freeze" of COLAs beginning on
20 January 1, 1999 and extending through December 31, 2001. Their retirement
21 allowances will be frozen for this time period at the amounts currently payable, as
22 shown below:

23 a. \$5,288.60 payable each month to James Driscoll;

24 b. \$3,663.72 payable each month to Patricia Driscoll;

25 c. \$8,293.04 payable each month to Darryl White.

26 3. LRS agrees that it will renew the COLAs on January 1, 2002 and
27 continuing thereafter pursuant to section 9360.10. Thus, on the first of each calendar
28 year, LRS will review the retirement allowance payable to James Driscoll and Darryl

1 White and raise them if necessary to two-thirds of the salary being paid the incumbent
2 Clerk of the Assembly or Secretary of the Senate. (If the pensions being paid exceed
3 two-thirds, there will be no adjustment.) Then, LRS will apply the COLA to each
4 allowance. Thereafter, every year, LRS will go through the same analysis (e.g., first
5 verifying that the allowance is two-thirds of the incumbent salary and then applying the
6 COLA). It is understood between the parties, this process will also apply automatically
7 to Patricia Driscoll, as against the retirement allowance payable to James Driscoll.

8 4. LRS and the parties mutually agree to waive any and all claims that are
9 pending, or that could be brought against each other or the Board, in connection with
10 the captioned matter.

11 5. LRS and the parties each agree to bear their own attorney fees and
12 costs in connection with the captioned matter.

13 6. In settling, LRS and the parties do not admit any wrongdoing, breach of
14 contractual obligations or breach of duty. Instead, they are settling the captioned
15 matter solely to avoid the expense and uncertainty of litigation.

16 7. This Settlement Agreement is binding on any successors, agents,
17 assignees, delegates, beneficiaries, heirs or assigns of LRS and the parties.

18 8. This Settlement Agreement constitutes the entire agreement and
19 understanding between LRS and the parties. There are no ancillary terms or
20 conditions and all prior terms or conditions are merged into this agreement -- with the
21 understanding that it only memorializes the verbal agreement reached at mediation.

22 9. This Settlement Agreement may be amended, but only through a written
23 instrument executed by LRS and the parties.

24 10. In the event of ambiguity, this Settlement Agreement shall be construed
25 as a whole according to its fair meaning, and in accordance with the transcript of
26 mediation. This agreement shall not be construed strictly for or against LRS or any of
27 the parties. If any provision of this agreement is rendered invalid, the remainder shall
28 survive.

CalPERS Legislators' Retirement System
Anne Woodward, Manager
400 P Street
Sacramento, CA 95814

October 7, 2008

Dear Ms. Woodward:

My Daughter, Karen Matus, spoke with Mr. Niehaus recently about my late husband, Clarence Alexander.

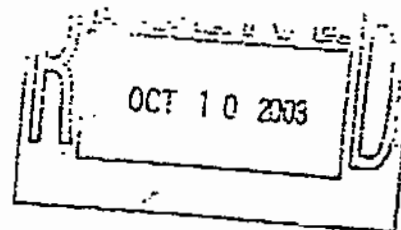
Mr. Alexander retired as the Secretary of the Senate in 1969. Mr. Niehaus tells us that he believes my husband's retirement has not been adjusted properly for many years. I am asking that you look into this to see if Mr. Niehaus is right. I understand that there is a process, an administrative remedy procedure, that you can use to correct errors such as this. I do not know how much this will affect my retirement benefit but it is very important to my family that we receive what Mr. Alexander was entitled from his retirement.

My family wants to thank you for your consideration in reviewing these issues that date back to the mid 1980s. Mr. Niehaus thinks it has been that long since the retirement was adjusted correctly. He explained that I have six months from the time I learned that a mistake has occurred to file a claim for correction. This is my request.

Sincerely,

Frances Alexander

Frances Alexander
Frances L. Alexander



Karen Matus
5836 Arrowood way
Sacramento, CA 95822



Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701
Telecommunications Device for the Deaf - (916) 326-3240
(916) 326-3829, FAX (916) 325-3410

Jim Niehaus
Consultant
88 Mossglen Circle
Sacramento, CA 95826

Dear Jim:

I apologize for the delay in responding to your letter of October 14, 2003 requesting me to revisit and consider an Administrative Remedy for the calculation of benefits in the Legislators' Retirement System (LRS) for Clarence Alexander and now his widow.

In your letter, you noted you began working in the LRS office in 1989 and came across Mr. Alexander's file in 1997 whereupon you began reviewing the file. You concluded Mr. Alexander had not received adjustments to his retirement benefits for the incumbent salaries or COLA's because the manager had retired in the late 1980's.

It is noted in our files that Mr. Alexander himself came to CalPERS on March 16, 1976 and inquired into legally and without adverse income tax consequences forgoing a portion of his monthly retirement allowance from the LRS. He further stated he did not think the Legislature intended to be quite as generous as circumstances have shown them to be in his case. Although the opinion conveyed to him in 1976 was that he "cannot voluntarily have your retirement allowance reduced" a subsequent opinion and legislative amendments reveal a member can waive and/or not be entitled to benefits that were calculated in error or contrary to legislative intent. There is no vested right to continue receiving benefits erroneously calculated.

In addition, emails between you and I on December 6, 1995 set forth instructions to seek a legal opinion on the issue related to Mr. Alexander's benefit payments and your recommendation that it was reasonable to expect that Mr. Alexander get only the current COLA's rather than taking a new COLA calculation back to 1969 creating a multiplier effect. This latter calculation method commenced when Mr. Alexander retired based on Mr. Alexander's salary or the salary of the incumbent - whichever was higher. The base salary was then increased for each year's cost of living adjustments (COLA's) since his retirement date. To continue this practice would have increased Mr. Alexander's pension to approximately \$21,944 per month in 1995 or 225% higher than the incumbent's gross monthly salary.

As you stated in a memo to me dated June 6, 1997, "staff were recommending a Plan to address the Legislators' Retirement System (LRS) benefit calculation problem resulting from the misinterpretation of section 9359.10 of the Government Code". A copy is enclosed for your reference. The recommendation was to "send a letter to Clarence

Alexander and others explaining why their retirement allowance is being reduced and the responsibility of the retirement system to collect for the over payment of these benefits for the last three years". It further notes the acceptance of a prior Legal Opinion wherein the courts would uphold the alternative construction proposed to eliminate a "multiplier effect" of calculating LRS benefits. The legal analysis also states there is no duty to continue making erroneous payments; however, there is a statutory duty to correct errors of the system under the mistake statutes. Recommendations were made to attempt to collect overpayments made within a three-year statute of limitations; however, it does not appear this recommendation was carried forward.

In 1980, the escalating COLA and incumbent salary calculations ceased for Mr. Alexander. When it was later reviewed and decided the original calculation method was an error, the opinion was rendered that incumbent salaries already included adjustments for COLAs; therefore, future retirement benefits would only include COLA's on incumbent salary since the most recent salary increase and thus reduce the excessive pension calculations that were clearly not the intent of the LRS statutes.

Although a revised calculation commenced with Mr. Alexander in 1980, there were still overpaid benefits made to him. The overpaid benefits were estimated at over \$100,000 for the years 1992 through 1995. CalPERS acknowledges there is considerable overpaid benefits made to Mr. and Mrs. Alexander and steps were not taken to seek a release of any future claims; however, we also acknowledge there are reasons that Mr. Alexander could claim relief from repaying all overpaid benefits due to his efforts to waive a portion of his benefits. Therefore, we will continue with the current calculation method for the survivor benefits to Mrs. Alexander and not seek a return of overpaid benefits but would request her signature on this letter as acceptance and release of future claims. Please have her sign where indicated and return to:

Anne Woodward, Manager
Legislators' Retirement System
P.O. Box 942705
Sacramento, CA 94229-2705

If there are any further questions, please do not hesitate to contact Anne Woodward at 916-326-3942. Otherwise, I hope the information in this letter will help to finally resolve this issue for you and Mrs. Alexander.

Sincerely,



Barbara Hegdal
Assistant Executive Officer

I accept the current calculation
Of retirement and survivor
benefits and release CalPERS of
any and all future claims

Enclosure

Frances Alexander date

cc: Mrs. Frances Alexander

ALX 325



Memorandum

California Public Employees' Retirement System

Date: November 19, 1991

File No.: 555-05-5175

To: Steven Phillips, Chief
Post Retirement Services Division

From: ^{Notes} Harvey Robinson, LRS Coordinator
Post Retirement Services Division

Subject: Resolution of Substantial LRS Underpayment
Re: Clarence Alexander

Clarence Alexander, as Secretary of the Senate, retired from the Legislators' Retirement System as a Legislative Statutory Member (LSM), on December 2, 1969. As a LSM, the member, under Section 9359.10 of the Government Code, was subject to having his allowance adjusted each time the incumbent Secretary of the Senate received a salary increase and each time a cost of living increase was payable under Section 9360.10 of the Government Code.

A review of Mr. Alexander's file reveals that while he has always received his COLA increases, no adjustment has been done due to incumbent salary increase commencing with the increase payable on July 1, 1980. Documents in the member file indicate that the member in 1976 wished to waive a portion of his allowance but was advised there was no legal authority to do so. Until the passage of AB 28, Chapter 17 Statutes of 1983 effective January 1, 1984, Section 3513 of the Civil Code has precluded a member from disclaiming a benefit. Chapter 17 provides that this waiver must be exercised by the member within nine months after the interest in the benefit becomes indefensibly vested.

Although the member may still wish to waive a portion of his allowance, unless it can be administratively inferred that we failed to inform him of his rights under Chapter 17, ^{\$8570.34} staff have calculated that the member's gross allowance should be increased from the current ~~\$7,550.52~~ ^{\$21,944.75} month to ~~\$17,549.29~~ ^{\$17,549.29} month and that there is a retroactive lump sum payable that approximates ~~\$462,656.03~~ ^{\$998,514.31}. If the preceding lump sum is payable, it could be inferred that the System has also incurred an interest liability and that the annuitant is subject to some interesting federal and state tax consequences. Please advise how you would like us to proceed in the matter.

1 of 5

August 20, 1969

Mr. Thomas P. Kerr
c/c Assemblyman Frank Lauterman's Office
State Capitol
Sacramento, California

Dear Mr. Kerr:

The following information is in answer to your letter dated August 11, 1969, and covers the cost estimates made by the System for Senate Bill 473, affecting the Legislators' Retirement System, and detail related to Clarence D. Alexander:

1. The cost estimates used by the Legislative Analyst were cost estimates as made at the time by System staff based on preliminary data, and were:

Added employer costs over those potential under the Public Employees' Retirement System (in retirement allowances and survivor benefits) for four members \$434,828

Assuming three of four "legislative statutory members" retired on attaining membership and, at age 55 or over, the allowance disbursement from the Legislators' Retirement Fund for one full year would be \$ 29,002

2. Data re Clarence D. Alexander:

Public Employees' Retirement System record:

Birthdate	9/23/14
Estimated Retirement Date	11/1/69
Estimated Member Contribution-10/31/69	\$26,352.00
Years of Credited Service	22.400 years
Allowance payable under PERS (Assuming retirement at age 55) 11/1/69	\$470.11 per month (\$5,642.00 per year)
Reserves for Allowance	
Member contributions	\$26,352
State's share	47,609
Total Reserve	\$73,961

ALX 96

Legislators' Retirement System, assuming retirement at age 55,
11/1/65

Estimated Contributions		\$17,879
Estimated Allowance		\$1,800 per month (\$14,400 per year)
Estimated Reserves		
Member Contributions	\$ 17,879	
Employer Reserve for Allowance	170,800	
Additional Employer Reserve for Survivor Benefit	<u>38,417</u>	
Total Estimated Reserve	\$227,106	
Total Legislators' System Estimated Benefit Costs		
Payable by State		\$209,307
Less: Existing State Obligation Under PERS		<u>- 47,609</u>
Net Estimated Increased State Obligation (Alexander's portion of added, \$434,828 for 4 members)		\$161,698

The pertinent data from these estimates re Alexander would seem to be:

Would receive \$14,400 per year instead of \$5,642; an increase of \$8,758 per year in retirement allowance.

The increased allowance would cost him less.

Estimated Member Contribution		\$ 26,352
Legislators' System Estimated Member Contribution		<u>17,879</u>
Approximate Net Return of Contributions to Alexander		\$ 8,473
Gain to Alexander assuming normal retirement and survivor lifetime.		
Estimated Contribution Return		\$ 8,500
Employer Added Cost of Increased Retirement Allowance	\$123,261	
Employer Paid Cost of Spouse's Survivor Benefit (an additional benefit not in PERS; 1/2 retired member allowance for spouse's lifetime)	<u>38,417</u>	161,698
Difference in Retired Member Lump Sum Death Benefits (Leg. - \$600; PERS - \$500)		100
Difference in Legislators' and PERS cost-of-living provisions (Leg. All C-2-L change; PERS 1% compounded after three-year delay)		Not Computed
Total Approximate Gain		<u>\$170,298</u> Plus

Please note, as stated in the detail, that this material is estimated. We do not yet have final service and other data such as actual retirement date, exact member contributions, etc.

If further explanation is desired on the foregoing, please call me on 445-3684.

Yours truly,

EDWARD N. COOMBS
ASSOCIATE EXECUTIVE OFFICER

ENC:st

LEGISLATORS' RETIREMENT SYSTEM

OFFICE OF THE EXECUTIVE OFFICER

P. O. BOX 1953
SACRAMENTO, CA 95809
TELEPHONE: (916) 445-2242



October 26, 1979

Mr. Clarence Alexander
6199-C Greenhaven Drive
Sacramento, CA 95831

Dear Mr. Alexander:

This is to inform you that your allowance has been adjusted because the incumbent Secretary of the Senate received a salary increase effective July 1, 1979. We are sorry for the delay in making this adjustment.

Your adjusted monthly allowance is \$3,772.60.

The warrant you receive on or about December 1 will be \$5,313.83. This reflects your November allowance plus a one-time payment of \$1,736.16 for the period of July to October, less deductions. Thereafter, your monthly warrants will be \$3,577.67.

If we can be of further assistance, please feel free to contact me at the above number.

Very truly yours,

Martha Nishi

MARTHA NISHI, MANAGER
LEGISLATORS' RETIREMENT SYSTEM

MN:mcc

ALX 38

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

1416 NINTH STREET, P.O. BOX 1933
SACRAMENTO, CALIFORNIA 95809
Telephone (916) 445-8549



March 30, 1981

Reply to Section 335

Clarence D. Alexander
6173 Gretnhaven Drive
Sacramento, CA 95831

Dear Mr. Alexander:

The monthly allowance you receive on or about April 1 will be increased to reflect the "cost-of-living" adjustment provided by the Legislators' Retirement Law (Government Code Section 9360.10). This current adjustment reflects the average increase in the Los Angeles and San Francisco "Consumer Price Index for All Urban Consumers" for the 1980 calendar year and is effective for the January allowance payable on February 1. Your April 1 dated warrant will, therefore, include a retroactive adjustment for those 2 months.

The monthly increase in your allowance as a result of the adjustment is \$ 641.47.

Your future allowances will be:

Monthly Increase

\$ 641.47

February Gross Allowance

\$ 4,138.54

Future Gross Allowance

\$ 4,780.01

Less Deductions:

Basic/Supplemental Health	Paid by State
Life Insurance	<u>17.33</u>
Federal Tax Withholding	<u>175.00</u>
State Tax Withholding	<u>20.00</u>
Part B Reimbursement	<u>+15.31</u>

Future Net Monthly Warrant

\$ 4,582.99

A one time retroactive payment of \$ 1,282.94 for January and February will be included in your March allowance. Therefore, the warrant you receive on or about April 1 will be \$ 5,865.93.

If you have any questions, please do not hesitate to contact me at the address or telephone number shown above.

Very truly yours,

Martha Nishi
MARTHA NISHI, MANAGER
LEGISLATORS' RETIREMENT SYSTEM

Questions:

1. May Clarence Alvarado disclaim the portion of his retirement allowance resulting from COLA increases due to changes in the incumbent's salary?
2. If so, must he disclaim this entire interest or may he disclaim only that portion which has accrued since July 1, 1980 and which has not been paid.
3. If Mr. Alvarado may disclaim any portion of ~~his~~ his benefit, is the disclaimed portion payable to his heirs?
4. Is the attached disclaimer appropriately worded?

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

1416 NINTH STREET, P. O. BOX 1933
SACRAMENTO, CALIFORNIA 95809



May 12, 1969

Assemblyman Frank Lauterman
Room 3120, State Capitol
Sacramento, California 95814

Dear Mr. Lauterman:

Assembly Bill 1868

You have requested an explanatory statement of Assembly Bill 1868 for your use in presenting this legislation to committees.

I have enclosed a statement which may be helpful to you. We will also send you the System's analysis of the legislation which can be used in conjunction with the enclosed statement, if you so desire.

Perhaps we should call your attention to the fact that Constitutional Officers as members of the Legislators' Retirement System have a double barrel cost-of-living increase in the Legislators' Retirement Law, which is no longer available to Legislators who are members of the System. Each of these provisions was applied to Legislator members, but was removed pursuant to the Constitutional amendment and legislation which was designed to authorize the Legislators to be able to make their own salary adjustments.

These provisions are:

1. Increasing the retirement allowances of Constitutional Officers at the time of retirement by changes in the Consumers Price Index since 1954 (currently 33.70%). It can be anticipated that this will be increasing in the future. This means currently that the 40% limitation noted in the analysis goes only to the base computation but that once the 40% has been calculated, it is increased by approximately 1/3 because of the changes in the Consumers Price Index.
2. The retirement allowances of Constitutional Officers are increased each time the salary of the incumbent is increased. Thus, those Constitutional Officers already retired will have an increase when the salary of the current Constitutional Officer is moved to \$30,000. Further increases will be granted if and when salaries of incumbents are increased in the future.

Assemblyman Frank Lanterman

-2-

May 12, 1969

In addition to this, after retirement, salaries are also continued to be increased by increases in the Consumers Price Index. This particular provision still is in existence for Legislators.

I call this to your attention because there may be some inconsistency in providing these double barrel cost-of-living, or inflationary, increases provided Constitutional Officers and you may wish to consider it.

Very truly yours,

WILLIAM E. PAYNE, EXECUTIVE OFFICER

WEP:mb
Enclosure

ALX 101