Date: September 18, 2019
To: Board of Retirement
From: James Wilbanks, Executive Director
Subject: Resolution 2019-03 Defining Compensation Earnable Pursuant to Government Code §7522.34 for Members What Are Not Subject to Government Code §31461 (PEPRA Members)

Mendocino County created a new Pay Code to accommodate the payment of differential pays, such as AM Shift/PM Shift, for a member that is on Police Leave with tax exempt pays. Per Workers’ Compensation laws, the County is required to continue these premium pays while the member is on Police Leave.

This new code is 473 with a description of Police Leave Differential Pays. The nature of the pay is exactly the same as Pay Codes 406 and 407 in Resolution 2018-02.

In accordance with Government Code Section 7522.34, this pay items should be included in compensation earnable. The attached resolution specifies an effective date of August 1, 2019 because these pay codes were used in August and contributions have been remitted on behalf of members related to this pay codes.

I recommend the following motion:

“Madam Chair, I move to adopt Resolution 2019-03 as presented.”
RESOLUTION 2018-2019 – 0203

TO SUPERSEDE RESOLUTION 2017-2018 – 09-02 DEFINING PENSIONABLE COMPENSATION PURSUANT TO GOVERNMENT CODE §7522.34 FOR MEMBERS WHO ARE NOT SUBJECT TO GOVERNMENT CODE §31461 (PEPRA MEMBERS)

WHEREAS, for those members who became active members on or after January 1, 2013, and who are subject to the California Public Employees’ Pension Reform Act (PEPRA) contained in Government Code §7522 et seq., the determination of their pensionable compensation is governed by Government Code §7522.34; and

WHEREAS, the pensionable compensation for those employee members who are subject to Government Code §7522.34 shall be the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules; and

WHEREAS, the Board has reviewed the current pay items and has determined which of those items are to be included in “pensionable compensation” and which items are not to be included; and

WHEREAS, it will be necessary for this Board, from time to time, to amend its determinations of pensionable compensation due to changes made by MCERA employers in their compensation schedules as well as changes in the law; Therefore be it

RESOLVED, that effective September 19, 2018, resolution number 2017-2018 – 09-02 is superseded and pursuant to Government Code §7522.34, the Board hereby makes the following determinations as to what is included in “pensionable compensation” and items of remuneration that are not included as of July-August 1, 2018:

1. Pensionable compensation shall include:

<table>
<thead>
<tr>
<th>Pay Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>330</td>
<td>3% NC Rtd</td>
</tr>
<tr>
<td>331</td>
<td>5% Cert Rtd</td>
</tr>
<tr>
<td>406</td>
<td>Shift PM</td>
</tr>
<tr>
<td>407</td>
<td>Shift AM</td>
</tr>
<tr>
<td>409</td>
<td>Supervisor Shift</td>
</tr>
<tr>
<td>417</td>
<td>10% Bilingual</td>
</tr>
<tr>
<td>418</td>
<td>18.00 Bilingual</td>
</tr>
<tr>
<td>422</td>
<td>Confidential 5%</td>
</tr>
<tr>
<td>437</td>
<td>Retroactive Longevity</td>
</tr>
<tr>
<td>438</td>
<td>2.5% Longevity</td>
</tr>
<tr>
<td>439</td>
<td>5% Longevity</td>
</tr>
<tr>
<td>443</td>
<td>7.5% Longevity</td>
</tr>
<tr>
<td>444</td>
<td>10% Longevity</td>
</tr>
<tr>
<td>452</td>
<td>Retroactive Salary Adjustment</td>
</tr>
<tr>
<td>457</td>
<td>BA Incentive</td>
</tr>
<tr>
<td>473</td>
<td>Police Leave Differential Pays</td>
</tr>
</tbody>
</table>

625-B Kings Court, Ukiah, CA 95482 • Tel: (707) 463-4328 • Fax: (707) 467-6472 • retirementassociation@mendocinocounty.org
Pay Code | Description
--- | ---
481 | Longevity Yrs of Svc 1
482 | Longevity Yrs of Svc 3
506 | Shift PM – DSA $2
515 | Animal Handler
520 | Field/Specialized Training
521 | Special Assignment
523 | 5% Bilingual – Probation
529 | Resident Deputy Bonus
530 | Officer In Charge
531 | Officer In Charge Level 2
532 | Detective/Investigator Premium
556 | AA/AS/Supv Incentive MCLEMA
557 | Supv Incentive MCLEMA
558 | 10% B/A Cert Incentive – MCLEMA
559 | 5% Regional
561 | Hourly 5% Regional
567 | 3% Bilingual
581 | Longevity Yrs of Svc 2

2. Pensionable compensation, at a minimum, shall not include, in any case, the following pay items.

   A. The following pay codes are not included:

   Pay Code | Description
--- | ---
303 | Vacation Pay-Out Non Management
304 | Vacation Pay-Out Management
424 | On Call 3.50 Per Hour
427 | On Call 4.50 Weekends
430 | MERP Txble Reimb – Inactive
432 | Insurance Stipend
434 | Clothing Allowance
435 | Supplemental Pay to Similarly Situated Members in the Same Grade or Class
440 | On Call Regular
441 | On Call Weekends/Holidays
445 | Car Allowance
456 | Board Of Supervisor Auto Allowance
514 | Standby Pay – Weekday
516 | Standby Pay – Weekend
525 | Uniform Allowance
528 | Housing
926 | Uniform Non-Cash

B. Pursuant to Government Code §7522.34, pensionable compensation does not include the following:

1. Any compensation determined by the Board to have been paid to increase a member's retirement benefit.

2. Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

3. Any one-time or ad hoc payments made to a member.
4. Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.
5. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
6. Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.
7. Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.
8. Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.
9. Employer contributions to deferred compensation or defined contribution plans.
10. Any bonus paid in addition to the compensation described in subdivision (a) of Government Code §7522.34.
11. Any other form of compensation the Board determines is inconsistent with the requirements of subdivision (a).
12. Any other form of compensation that this Board determines should not be pensionable compensation.

3. Pursuant to Government Code §7522.10, whenever pensionable compensation, as defined in §7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the monetary limitations set forth in subdivision §7522.10.

**FURTHER RESOLVED** that any pay codes not specifically listed in this Resolution as included in pensionable compensation shall be excluded from pensionable compensation. In the event a new pay item is created by a plan sponsor, the new pay item shall be excluded from pensionable compensation unless, and until, this resolution is amended by the Board of Retirement to include the pay item in pensionable compensation.

**FURTHER RESOLVED** that the above listed determinations by the Board of what is included or not included in pensionable compensation, shall be in effect until such time as this Board, the Legislature or the Courts take action that as a matter of law requires a different determination.

The foregoing resolution introduced by Ms. Smith, seconded by Mr. Sullivan, and carried this 19th-18th day of September, 2018-2019, by the following vote:

- Ayes: 8
- Noes: 0
- Abstain: 0
- Absent: 1

WHEREUPON, The Chair declared said Resolution adopted, and SO ORDERED.

[Signature]
Dan Gjerde
Kathryn Cavness
Board of Retirement Chair

[Signature]
Attest: James R. Wilbanks, Ph.D.
Executive Director

Resolution 2018-2019 – 02-03