

Date: December 11, 2019  
To: Board of Retirement  
From: James Wilbanks, Executive Director  
Subject: Resolution 2019-05 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 in accordance with the new Memorandum of Understanding between the Deputy Sheriffs Association and Mendocino County which created a new pay item. The new item is pay code 513 – Animal Care Taking Hours in recognition of the time that Animal Handlers provide care for their assigned service animals outside of regular working hours. The pay is a fixed dollar amount per pay period.

In accordance with Government Code Section 7522.34, this pay items should not be included in compensation earnable as it is payment for services provided outside of regular working hours.

Since we are proposing changes to the resolution, I asked staff to review the existing codes for consistency between our resolutions and the County system. The changes to the pay code descriptions in the draft resolution are a result of that effort. Additionally, we added several pay codes that were not previously included in our resolution. The treatment of these pay codes has never been in doubt, but we decided to include them for the sake of completeness.

I recommend the following motion:

“Madam Chair, I move to adopt Resolution 2019-05 as presented.”

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**RESOLUTION 2019 – ~~0305~~****TO SUPERSEDE RESOLUTION ~~2018-2019 – 02-03~~ DEFINING PENSIONABLE  
COMPENSATION PURSUANT TO GOVERNMENT CODE §7522.34 FOR MEMBERS WHO  
ARE NOT SUBJECT TO GOVERNMENT CODE §31461 (PEPRA MEMBERS)**

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**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 18~~ December 11, 2019, resolution number ~~2018-2019 – 02-03~~ 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 ~~August-December~~ December 1, 2019:

1. Pensionable compensation shall include:

<b>Pay Code</b>	<b>Description</b>
<u><a href="#">100</a></u>	<u><a href="#">Regular Pay</a></u>
<u><a href="#">300</a></u>	<u><a href="#">Vacation</a></u>
<u><a href="#">310</a></u>	<u><a href="#">Sick Leave</a></u>
<u><a href="#">311</a></u>	<u><a href="#">Sick: Family</a></u>
<u><a href="#">312</a></u>	<u><a href="#">Sick: Bereavement</a></u>
<u><a href="#">313</a></u>	<u><a href="#">Sick: Industrial</a></u>
<u><a href="#">316</a></u>	<u><a href="#">Paid Administrative Leave</a></u>
<u><a href="#">322</a></u>	<u><a href="#">CTO/FTO Used</a></u>
<u><a href="#">323</a></u>	<u><a href="#">ATO Used-MCPAA</a></u>
<u><a href="#">325</a></u>	<u><a href="#">Personal Leave</a></u>
<u><a href="#">330</a></u>	<u><a href="#">3% NC Rtd-Courts</a></u>
<u><a href="#">330</a></u>	<u><a href="#">Catastrophic Leave</a></u>

Pay Code	Description
331	5% Cert Rtd-Courts
<u>331</u>	<u>Union Mentor Time</u>
<u>332</u>	<u>Union Time Bank</u>
<u>340</u>	<u>Holiday Bank</u>
<u>345</u>	<u>Military Leave</u>
<u>350</u>	<u>Bereavement: County Paid</u>
<u>351</u>	<u>PSPS Paid Time Off</u>
<u>375</u>	<u>Police Leave</u>
<u>376</u>	<u>Police Leave Elected Official</u>
<u>380</u>	<u>Management Leave</u>
406	Shift PM
407	Shift AM
409	Supervisor Shift
417	<u>≥10% Bilingual</u>
418	<del>18.00</del> <u>≤9% Bilingual</u>
422	Confidential 5%
437	Retroactive Longevity
438	2.5% Longevity
439	5% Longevity
443	7.5% Longevity
444	10% Longevity
452	Retroactive Salary Adjustment
<u>457</u>	<del>BA Incentive</del>
<u>461</u>	<u>Retroactive Regional Pay</u>
<u>472</u>	<u>Salary Adjustment Negative</u>
473	Police Leave Differential Pays
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- <u>MCPEA/MCPAA/MCLEMA</u> — <del>Probation</del>
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- <u>MCPEA/MCPAA/MCLEMA</u>
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
<a href="#">200</a>	<a href="#">Overtime</a>
<a href="#">201</a>	<a href="#">Overtime Premium</a>
<a href="#">202</a>	<a href="#">Overtime Straight Time</a>
<a href="#">302</a>	<a href="#">Vacation Term Pay</a>
303	Vacation Pay-Out Non Management
304	Vacation Pay-Out Management
<a href="#">305</a>	<a href="#">Excess Vacation Cash Non Ret</a>
<a href="#">321</a>	<a href="#">CTO: Paid</a>
<a href="#">341</a>	<a href="#">Holiday Bank Paid</a>
<a href="#">346</a>	<a href="#">Deceased Wages</a>
<a href="#">405</a>	<a href="#">Holiday Premium Pay-SEIU</a>
424	On Call 3.50 Per Hour-MCPEA
427	On Call 4.50 Weekends/Holidays-MCPEA
430	<del>HI MERP</del> Txble Reimb <del>-- Non-Box 12</del> <del>Inactive</del>
432	Insurance Stipend
434	Clothing Allowance
435	Supplemental Pay <del>to Similarly Situated Members in the Same Grade or Class</del>
440	On Call <a href="#">3.50 Weekdays-SEIU</a> <del>Regular</del>
441	On Call Weekends/Holidays-SEIU
445	Car Allowance
<a href="#">446</a>	<a href="#">Car Accountable</a>
<a href="#">447</a>	<a href="#">Deferred Compensation Match Fixed Amount</a>
<a href="#">448</a>	<a href="#">3% Deferred Compensation Match</a>
<a href="#">449</a>	<a href="#">4% Deferred Compensation Match</a>
<a href="#">450</a>	<a href="#">Retroactive Salary Adjustment-OT</a>
<a href="#">453</a>	<a href="#">2% Deferred Compensation Match</a>
<a href="#">454</a>	<a href="#">Board of Supervisors Phone Allowance</a>
456	Board <del>Of</del> Supervisors <del>-Car</del> <del>Auto</del> Allowance
<a href="#">458</a>	<a href="#">Severance Pay</a>
<a href="#">459</a>	<a href="#">Military Adjustment +/-</a>
<a href="#">460</a>	<a href="#">SDI Adjustment</a>
<a href="#">465</a>	<a href="#">Work Comp Adjustment</a>
<a href="#">467</a>	<a href="#">Retention Pay</a>
<a href="#">480</a>	<a href="#">Call Back</a>
<a href="#">485</a>	<a href="#">Holiday Worked</a>
<a href="#">498</a>	<a href="#">Non Taxable Adjustment</a>
<a href="#">513</a>	<a href="#">Animal Care Taking Hours</a>
514	Standby Pay – Weekday
516	Standby Pay – Weekend
<a href="#">524</a>	<a href="#">Uniform Separate Check</a>
525	Uniform Allowance
528	Housing
<a href="#">827</a>	<a href="#">Clothing Reimburse</a>
<a href="#">834</a>	<a href="#">Tool Reimburse</a>
<a href="#">891</a>	<a href="#">Moving Expense</a>
<a href="#">892</a>	<a href="#">Taxable Reimburse</a>
<a href="#">894</a>	<a href="#">Gym Membership Reimburse</a>

Pay Code	Description
926	Uniform Non-Cash
<a href="#">995</a>	<a href="#">Taxable Fringe</a>

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. Harris~~, seconded by ~~Ms. Smith~~, and carried this ~~18th~~11th day of ~~September~~December, 2019, by the following vote:

Ayes: ~~Shari Schapmire, Lee Parker, Kathryn Smith, Julie Forrester, Quincy Cromer, Tim Knudsen, Jerilyn Harris, Dan Gjerde and Kathryn Cavness.~~

Noes: 0

Abstain: 0

Absent: 0

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

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Kathryn Cavness  
Board of Retirement Chair

Attest: \_\_\_\_\_  
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James R. Wilbanks, Ph.D.  
\_\_\_\_\_  
Executive Director