

Date: April 15, 2020
To: Board of Retirement
From: James Wilbanks, Executive Director
Subject: Resolution 2020-04 Defining Compensation Earnable Pursuant to Government Code §7522.34 for Members What Are Not Subject to Government Code §31461 (PEPRA Members)

Mendocino County created several new Pay Codes in response to the COVID-19 pandemic. Specifically, these pay codes are for use by employees directly or indirectly impacted by the coronavirus.

In accordance with Government Code Section 7522.34, this pay items should be included in compensation earnable.

I recommend the following motion:

“Madam Chair, I move to adopt Resolution 2020-04 as presented.”

RESOLUTION 2020 - 042**TO SUPERSEDE RESOLUTION ~~2019-05~~2020 - 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RESOLVED, that effective ~~February 19~~April 15, 2020, resolution number ~~2019-05~~2020 - 02 is superseded and pursuant to Government Code §7522.34, the Board hereby makes the following determinations as to what is included in "pensionable compensation" and items of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 ~~February 1~~March 22-, 2020:

1. Pensionable compensation earnable shall include:

Pay Code	Description
100	Regular Pay
300	Vacation
310	Sick Leave
311	Sick: Family
312	Sick: Bereavement
313	Sick: Industrial
316	Paid Administrative Leave
322	CTO/FTO Used
323	ATO Used-MCPAA
325	Personal Leave

Pay Code	Description
330	3% NC Rtd-Courts
330	Catastrophic Leave
331	5% Cert Rtd-Courts
331	Union Mentor Time
332	Union Time Bank
340	Holiday Bank
345	Military Leave
350	Bereavement: County Paid
351	PSPS Paid Time Off
375	Police Leave
376	Police Leave Elected Official
380	Management Leave
390	FFCRA Type 1,2,3
391	FFCRA Type 4,5,6
393	Advanced Sick Leave
406	Shift PM
407	Shift AM
409	Supervisor Shift
417	>10% Bilingual
418	<9% Bilingual
422	Confidential 5%
437	Retroactive Longevity
438	2.5% Longevity
439	5% Longevity
443	7.5% Longevity
444	10% Longevity
452	Retroactive Salary Adjustment
461	Retroactive Regional Pay
472	Salary Adjustment Negative
473	Police Leave Differential Pay
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-MCPEA/MCPAA/MCLEMA
529	Resident Deputy Bonus
530	Officer In Charge
531	Officer In Charge Level 2
532	Detective/Investigator Premium
556	5% Edu/Longevity Incentive-MCLEMA
557	2.5% Edu/Longevity Incentive-MCLEMA

Pay Code	Description
558	10% Edu/Longevity Incentive-MCLEMA
559	5% Regional
561	Hourly 5% Regional
567	3% Bilingual-MCPEA/MCPAA/MCLEMA
581	Longevity Yrs of Svc 2

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

A. The following pay codes are **not** included:

Pay Code	Description
200	Overtime
201	Overtime Premium
202	Overtime Straight Time
302	Vacation Term Pay
303	Vacation Pay-Out Non Management
304	Vacation Pay-Out Management
305	Excess Vacation Cash Non Ret
321	CTO: Paid
341	Holiday Bank Paid
342	Holiday Bank: Paid MCPEA
346	Deceased Wages
405	Holiday Premium Pay-SEIU/JH
424	On Call 3.50 Per Hour-MCPEA
427	On Call 4.50 Weekends/Holidays-MCPEA
430	HI Txble Reimb – Non-Box 12
432	Insurance Stipend
434	Clothing Allowance
435	Supplemental Pay
440	On Call 3.50 Weekdays-SEIU
441	On Call Weekends/Holidays-SEIU
445	Car Allowance
446	Car Accountable
447	Deferred Compensation Match Fixed Amount
448	3% Deferred Compensation Match
449	4% Deferred Compensation Match
450	Retroactive Salary Adjustment-OT
453	2% Deferred Compensation Match
454	Board of Supervisors Phone Allowance
456	Board of Supervisors Car Allowance
458	Severance Pay
459	Military Adjustment -
460	SDI Adjustment
465	Work Comp Adjustment

Pay Code	Description
467	Retention Pay
469	Misc Ded: OT
470	Misc Adj +/- Not Subj Rtmt
480	Call Back
485	Holiday Worked
498	Non Taxable Adjustment
513	K9 Care-Taking Stipend
514	Standby Pay – Weekday
516	Standby Pay – Weekend
524	Uniform Separate Check
525	Uniform Allowance
528	Housing
827	Clothing Reimburse
834	Tool Reimburse
891	Moving Expense
892	Taxable Reimburse
894	Gym Membership Reimburse
926	Uniform Non-Cash
953	Taxable Benefit State
954	Taxable Benefit Federal
966	Taxable Benefit Fed+/-State
995	Taxable Fringe

- 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 _____, seconded by _____, and carried this ~~15~~¹⁹th day of ~~February~~^{April}, 2020, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

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

Kathryn Cavness
Board of Retirement Chair

Attest: _____
James R. Wilbanks, Ph.D.
Executive Director