James Wilbanks, Ph.D.
Retirement Administrator

MENDOCINO COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION
625-B KINGS COURT
UKIAH, CALIFORNIA 95482-5027

Date: December 14, 2016
To: Board of Retirement
From: James Wilbanks, Retirement Administrator
Subject: Resolution 2016 – 05 Defining Pensionable Compensation Pursuant to Government Code
           §7522.34 for Members who are not subject to Government Code §31461 (PEPRA
           Members)

Attached you will find a Resolution 2016 – 05 Defining Pensionable Compensation Pursuant to
Government Code §7522.34 for Members who are not subject to Government Code §31461 (PEPRA
Members) for your consideration. The presented resolution is in mark-up from the Board of Retirement
Resolution 2016 – 02 for your convenience.

We were notified by Mendocino County that two new pay codes had been created. The first new pay
code is 432, Insurance Stipend – South Coast, Covelo Resident Deputy. After review of information from
the County, we believe the pay item should be excluded from pensionable compensation for PEPRA
members. The draft resolution reflects that position.

Additionally, the proposed Resolution clarifies that an employee who elects not to take the County Health
Insurance Supplement and instead receive payments via the second new pay code 432, Medical Expense
Reimbursement Plan, shall not have such payments included in Pensionable Compensation.

Finally, a paragraph has been added to the Resolution to make clear that any new pay codes created by an
employer shall be excluded from Pensionable Compensation until the Board of Retirement amends the
resolution to include the newly create pay code items in Pensionable Compensation. This language
clarifies that pay codes are excluded from Pensionable Compensation by default, and the only means for
inclusion is by action of the Board of Retirement.

I recommend the Board adopt the Resolutions as presented.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION 2016-~~02~~05

TO SUPERSEDE RESOLUTION ~~2014-06~~2016-02DEFINING 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 May 18, 2016, resolution number 2014-06 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:

1. Pensionable compensation shall include:

Pay Code	Description
406	Shift PM
407	Shift AM
409	Supervisor Shift
417	32.50 Bilingual
418	18.00 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
457	BA Incentive
515	Animal Handler
520	Field/Specialized Training
523	Bilingual 5% MCLEMA

Pay Code	Description
529	Covelo 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 Incent
559	AA/AS DSA 3%
567	Bilingual 3% MCLEMA

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

    A. The following pay codes are <u>not</u> included:

Pay Code	Description
303	Vacation Pay-Out Non Management
304	Vacation Pay-Out Management
424	On Call Regular – Probation
427	On Call Weekend/Holiday – Probation
<u>430</u>	<u>Medical Expense Reimbursement Plan</u>
<u>432</u>	<u>Insurance Stipend – South Coast, Covelo Resident Deputy</u>
434	Clothing Allowance – Probation
435	Supplemental Pay to Similarly Situated Members in the Same Grade or Class
440	On Call Regular – SEIU
441	On Call Weekend/Holiday – SEIU
445	Car Allowance
456	Board Of Supervisor Auto Allowance
514	Standby Pay
525	Uniform Allowance
528	Covelo 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 Board Member _____, seconded by Board member _____, and carried this 14th day of December, 2016, by the following vote:

     Ayes:
     Noes:
     Abstain:
     Absent:

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

_____   Attest: _____

                                               James R. Wilbanks, Ph.D.
Board of Retirement Chair   Retirement Administrator