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MENDOCINO COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION
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Date: May 18, 2016
To: Board of Retirement
From: James Wilbanks, Retirement Administrator
Subject: Resolution 2016 – 02, Defining Compensation Earnable Pursuant to Government Code §7522.34 for Members who are not subject to Government Code §31461 (PEPRA Members)

Attached you will find a proposed Resolution 2016 – 02, Defining Compensation Earnable 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 2014 – 06 for your convenience.

As discussed in my memo regarding Resolution 2016 – 01, there are three broad categories of proposed changes to the Resolution. The first category of changes in the proposed Resolution is the addition of newly created pay codes. Included in this category are pay codes 424, 427, and 434. These three pay codes apply specifically to Probation employees and were recently created as a result of a new collective bargaining agreement between Probation employees and the County. These pay codes are excluded from compensation earnable for PEPRA members in order to be consistent across agreements and bargaining units. Specifically, pay codes 424 and 427 are similar to excluded pay codes 440 and 441; and pay code 434 is similar to excluded pay code 525.

The second category of changes in the proposed Resolution is merely clarifications. Included in this category are the changes to pay codes 440 and 441. Both of these pay codes are still excluded from Compensation Earnable for PEPRA members.

The final category of changes in the proposed Resolution is including pay codes that have existed for some time, and should be included in the Resolution. Included in this category are pay codes 437, 452, and 557. Pay code 557 is incentive pay for non-supervisory members of MCLEMA who work a shift in a supervisory role. Pay code 557 is rarely used which may explain why it was not included in the past and it is comparable to pay code 556, thus it should be added to our Compensation Earnable for PEPRA members accordingly.

Pay codes 437 and 452 relate to retroactive adjustments in longevity and salary. These pay codes are used when an adjustment is made for a prior pay period, or pay periods. The adjustment cannot be included in either Salary or Longevity as those items are regulated by other controlling authorities such as collective bargaining agreements and the County's published salary schedule. Thus, the adjustments are paid using these pay codes. Had the items paid under pay codes 437 and 452 been paid in the appropriate pay periods, the items would have been included in Compensation Earnable. Including these pay codes in the Resolution clarifies this.

I recommend the Board adopt the Resolution as presented.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION ~~2014-06~~2016-02

**TO SUPERSEDE RESOLUTION ~~2014-06~~2012-07 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 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 17, 2014~~May 18, 2016, resolution number ~~2012-07~~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%
<u>437</u>	<u>Retroactive Longevity</u>
438	2.5% Longevity
439	5% Longevity
443	7.5% Longevity
444	10% Longevity
<u>452</u>	<u>Retroactive Salary Adjustment</u>
457	BA Incentive
515	Animal Handler
520	Field/Specialized Training

Pay Code	Description
523	Bilingual 5% MCLEMA
529	Covelo Bonus
530	Officer In Charge
531	Officer In Charge Level 2
532	Detective/Investigator Premium
556	AA/AS/Supv Incentive MCLEMA
<u>557</u>	<u>Supv Incentive MCLEMA</u>
558	10% B/A Incent
559	AA/AS DSA 3%
567	Bilingual 3% MCLEMA

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
<u>424</u>	<u>On Call Regular – Probation</u>
<u>427</u>	<u>On Call Weekend/Holiday – Probation</u>
<u>434</u>	<u>Clothing Allowance – Probation</u>
435	Supplemental Pay to Similarly Situated Members in the Same Grade or Class
440	On Call Regular – <u>SEIU</u>
441	On Call Prior PP <u>Weekend/Holiday – SEIU</u>
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 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 ~~17th-18th~~ day of ~~September~~May, ~~2014~~2016, by the following vote:

ayes:
noes:
absent:

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

~~Shari Schapmire~~Randy Goodman
Board of Retirement Chair

~~Jim Andersen~~James Wilbanks
~~Interim~~-Retirement Administrator