

Memorandum

MEETING DATE

APR 10 2013

AGENDA ITEM

#15

Date: April 10, 2013

To: Board of Retirement
Marilyn Leedom, Retirement Chief Executive Officer

From: Kurt Schneider, Retirement Deputy Chief Executive Officer
Karen Levy, General Counsel

Subject: Preliminary Results of Analysis of Whether Pay Items Meet The Statutory Requirements For "Pensionable Compensation" Under PEPRA
G.C. Section 7522.34 (eff. 1/1/13)

As directed by the CCCERA Board of Retirement, staff has compiled pay item information from all CCCERA participating employers and has conducted a preliminary analysis of whether each pay item meets the statutory requirements set forth in the California Public Employees' Pension Reform Act of 2013 ("PEPRA") to qualify as "pensionable compensation." Note that this analysis relates to the implementation of "pensionable compensation" under PEPRA for employees becoming new members on or after January 1, 2013. This memorandum does *not* address any changes to "legacy" or "classic" members of the CCCERA retirement system.¹

I. PEPRA Definition of "Pensionable Compensation"

In order to qualify as "pensionable compensation" under PEPRA, an item of compensation must meet the following four requirements as provided under Government Code Section 7522.34(a):

- (1) Pay must be part of the normal monthly rate of pay or base pay of the member.
- (2) Pay must be paid in cash to similarly situated members in the same grade or class of employment.
- (3) Pay must be for services rendered on a full-time basis during normal working hours.
- (4) Pay must be paid pursuant to publicly available pay schedules.

¹ Assembly Bill 197 contains amendments to what counts as compensation for retirement purposes for current members. CCCERA's implementation of AB 197 has been temporarily stayed pursuant to a court order entered on November 28, 2012 in the matter of *Contra Costa County Deputy Sheriffs Association, et al., v. CCCERA, et al.*, Contra Costa County Superior Court, Case No. N12-1870. The Court Order requires that CCCERA continue to follow its policy as to current, "classic" members, until after this matter is heard and decided.



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II. PEPRA Exclusions From "Pensionable Compensation"

PEPRA contains both *specific* and *general* exclusions from "Pensionable Compensation."

The *specific* exclusions are items such as: termination or during-service payouts for unused vacation or sick leave; housing, automobile or uniform allowance; standby, on-call and call-back pay for services rendered outside of normal working hours; conversion of in-kind benefits into cash during the final compensation period; one-time or ad hoc payments, bonus payments, severance pay, and retirement incentive pay.

The *general* exclusions from "pensionable compensation" confer upon the CCCERA Board of Retirement broad authority to exclude any other form of compensation which the Board determines:

- Is paid to increase a member's retirement benefit (G.C. § 7522.34(c)(1));
- Is "inconsistent" with the requirements of 7522.34(a) (which defines "pensionable compensation") (G.C. § 7522.34(c)(11)); or
- Should not be pensionable compensation (G.C. § 7522.34(c)(12)).

For your convenience, we have included the complete list of PEPRA's *specific* and *general* exclusions from "pensionable compensation" below:

- (1) *Any compensation determined by the retirement board to have been paid to increase a member's retirement benefit under that system.*
- (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. (E.g. automobile allowance paid to a member who previously was provided the use of an automobile.)*
- (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. (E.g., standby pay, on-call pay and call-back pay.)*
- (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 (FLSA time).*
- (9) *Employer contributions to deferred compensation or defined contribution plans.*



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- (10) *Any bonus paid in addition to the compensation described in Section 7522.34(a) (i.e., monthly rate of pay or base pay, etc.).*
- (11) *Any other form of compensation a public retirement board determines is inconsistent with the requirements of Section 7522.34(a) (i.e., monthly rate of pay or base pay, etc.).*
- (12) *Any other form of compensation a public retirement board determines should not be pensionable compensation.*

III. CCCERA's Implementation of "Pensionable Compensation"

On December 11, 2012, the CCCERA Board took action to include only "base pay" in "pensionable compensation" for new PEPRA members, subject to staff monitoring developments in the law, and specifically, any clarification from CalPERS. On December 27, 2012, CalPERS published a circular letter to its participating employers, indicating that CalPERS intended to include certain "special compensation" pay items above base pay in calculating the pensionable compensation of its members under PEPRA, subject to regulations to be developed at a later time. In light of the Circular Letter, the CCCERA Board directed staff to analyze pay items from all employers and provide information to the board on whether the items meet the four requirements for "pensionable compensation" set forth in PEPRA and whether exclusions apply. As of the date of this writing, we understand that CalPERS continues to collect contributions on these pay items, but has yet to reach final conclusions or issue proposed regulations on these items.

IV. Methodology

CCCERA staff utilized the following methodology for each pay item:

Step 1: Does a *specific* exclusion apply to the pay item? If so, the item is not pensionable.

Step 2: Are each of the four requirements of "pensionable compensation" met?

- (i) Is the pay item part of the normal monthly rate of pay or base pay of the member? Is it paid on an ongoing and recurring basis? Is it permanent rather than temporary?
- (ii) Is the pay item paid in cash to similarly situated members in the same grade or class of employment? Is it required of all employees in the job classification rather than a select few? Is it required rather than voluntary? Is it pay for an essential skill or service of the job classification?
- (iii) Is the pay item paid for services rendered on a full-time basis during normal working hours?
- (iv) Is the pay item paid pursuant to publicly available pay schedules? While "publicly available pay schedule" is a term that is not defined under PEPRA, PERS has existing regulations that define "publicly available pay schedule" as a pay schedule that meets all of the following requirements:
 - (1) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
 - (2) Identifies the position title for every employee position;



- (3) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- (4) Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- (5) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- (6) Indicates an effective date and date of any revisions;
- (7) Is retained by the employer and available for public inspection for not less than five years; and
- (8) Does not reference another document in lieu of disclosing the payrate.

(California Code of Regulations, Title 2 § 570.5.)

Step 3: Are there other *general* exclusions that might be applicable to the pay item? Is it paid to increase a member's retirement benefit? Is it "inconsistent" with the requirements of 7522.34(a) (which defines "pensionable compensation")? Is it pay that "should not be pensionable compensation"?

V. Results

Accompanying this Memorandum are the results the information collected regarding each pay item for each of CCCERA's participating employers. The information is contained in spreadsheets prepared by CCCERA for each employer pay item, based on documentation provided by employers to CCCERA such as: publicly available salary schedules, excerpts from memoranda of understanding ("MOUs"), employment contracts or resolutions addressing pay items and the circumstances under which they are agreed to be paid, and other records relevant to the analysis. As requested by the Board, for each pay item we have included whether it meets the four requirements set forth in Section 7522.34(a), and whether exclusions apply.

Here is the summary of the pay item analysis, *if* CCCERA were to adopt a "base pay plus" standard:

- Regular base pay is included in employers' pay schedules and included in pensionable compensation
- As to "special" compensation pay items (differentials) above base pay:
 - i. Longevity and bilingual pay do not appear to be pensionable compensation because they are not included in the publicly available pay schedules.
 - ii. Certain pay differentials appear to be permanent pay raises for everyone in the same job classification. However, they do not appear to be pensionable compensation because they are not included in the publicly available pay schedules. (Examples: D37, F77)
 - iii. Special education pay differentials do not appear to be pensionable compensation because they are either:



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1. Temporary, rather than ongoing and recurring monthly rate of pay,
or
 2. Not paid to everyone in the same job classification; not required of
everyone in the same job classification; rather, they are voluntary
- iv. Special shift (e.g. graveyard) and special location (e.g. certain facility) pay
differentials do not appear to be pensionable compensation because they
are either:
1. Temporary, rather than ongoing and recurring monthly rate of pay,
or
 2. Not paid to everyone in the same job classification; not required of
everyone in the same job classification; rather, they are voluntary

VI. Next Steps/Issues to Consider

If the Board determines that it wishes to reconsider whether “pensionable compensation” under PEPPRA includes items of compensation above base pay, we would recommend that the Board review the accompanying spreadsheets and develop a formal policy for the inclusion or exclusion of all elements of pay currently in use by CCCERA’s participating employers; and also develop a methodology for assessing and determining additional elements of pay that may come into usage in the future.

Setting a policy at this time will enable CCCERA’s participating employers to know which pay differentials above base pay to collect retirement contributions on; it will also enable CCCERA’s staff to put the systems in place necessary to properly calculate future retirement allowances. The Retirement Board will always reserve the authority to reconsider its treatment of these elements of pay under future circumstances, in light of changes in the law and other events that may occur.



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Pensionable Compensation
Under Government Code Section 7522.34

Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
REG	Regular Pay	Yes	Yes	Yes	Yes	This pay represents the monthly salary rate published in the County's salary schedule found at: http://www.cccounty.us/DocumentCenter/Home/View/1392 Thus, this pay code would be classified as INCLUDED in pensionable compensation.
B14	Bonus RN/CN Weekend Shift Pay	No	No	No	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. pay is not necessarily ongoing and recurring), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification). Additionally, pay would be excluded to the extent it is for services rendered outside of normal working hours. Thus, these pay codes would be classified as EXCLUDED from pensionable compensation.
B15	Bonus Weekend Shift Pay					
B25	Bonus Weekend Shift \$25					
B31	Bonus FNP Weekend Assignment					
B34	Bonus Emerg Room Assignment					
B83	Bonus Weekend Clinics					
B84	Bonus Sat/Sun Assignment Pay					
AC3	Education Allow Annual 2.5%	No	No	Yes	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. pay is not necessarily ongoing and recurring), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification). Thus, these pay codes would be classified as EXCLUDED from pensionable compensation.
B60	Bonus RN Special Assignment					
B73	Bonus ISW Cook Relief					
B95	Bonus Hazard Matl Response TM					
B96	Bonus Lead Counselor Duties					
B97	Bonus Inst Serv Wkr Relief Pay					
C28	Certificate Hazardous Materials					
D03	Differential BOMI Certificate					
D04	Differential RPA Sr Memb Cert					
D09	Differential Assessor Educ Ach					
D10	Differential Appr Standard Div					
D18	Differential Unit Leader 5%					
D20	Differential Weekend Rounds					
D22	Differential M S W II Lead					
D27	Differential Investigative Dut					
D29	Differential DSA Training 5%					
D40	Differential Recordable Docs Tech					
D43	Differential Charge Pay					
D44	Differential Charge Nurse					
D48	Differential Special Proj 5%					
D49	Differential Special Proj 10%					
D50	Differential Building Supv Pay					
D51	Differential Spec Proced \$500/					
D52	Differential Special Procedure					
D53	Differential Comp Ops Supv					
D54	Differential DA Office Mnger					
D58	Differential Search Wrt Occurs					
D61	Differential Police Svcs 10%					
D65	Differential Police Mgr 4.5%					
D66	Differential Police Manager 3%					
D68	Differential Police Manager 6%					
D69	Differential Police Manager 9%					
D72	Differential Police Mgr 15%					
D62	Differential FACS					
D67	Differential Hospital PSO					
D76	Differential EHSD Spec Proj					
D84	Differential Heavy Equip Op/In					
D85	Differential Bldg Management					
D86	Differential Mgmt Struct Eng					
D87	CNA Code Grey Team Assgn 10%					
D88	CNA Code Grey Team Assgn 5%					
D91	Differential Stat /Code Gr 10%					
D92	Differential Stat/Code Gry 5%					
E18	Differential MH Unit Leader					
E25	Differential Sterile Process					

(i) Pay is part of the normal monthly rate of pay or base pay of the member

(ii) Pay is paid in cash to similarly situated members in the same grade or class of employment

(iii) Pay is for services rendered on a full-time basis during normal working hours

(iv) Pay is paid pursuant to publicly available pay schedules

Only applies to PEPR "New Members" who become members of CCCERA on or after January 1, 2013

Pensionable Compensation
Under Government Code Section 7522.34

Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
E29	Differential Training Assignmt					
E31	Differential Prob WorkTraining					
E41	Differential HM Prog Coord					
E42	Differential HM Program Leader					
E70	Differential Tower Climbing					
E72	Differential Hazard Mat					
E76	Differential Supv Tele/Tele	No	No	Yes	No	(Continued) Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. pay is not necessarily ongoing and recurring), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification). Thus, these pay codes would be classified as EXCLUDED from pensionable compensation.
E78	Differential Code Gray Prem					
E80	Differential CNA Det Assignm					
E82	Differential CNA Emergency					
E85	Differential CNA Detent Fac'ty					
F05	Fire Mgmt Educ Incentive					
F06	Fire Mgmt Educ Incentive					
F07	Fire Mgmt Educ Incent Conting					
F27	Fire Differential ALSEC Param					
F33	Fire EMT Diff Rodeo Fire Only					
F35	Paramedic Differential Rodeo					
F47	Rodeo Fire Acting Pay					
HZ2	Hazard Duty Pay					
HZ5	Detention Division Diff NonSw					
HZD	CNA Detent Facility Assign					
HZE	CNA Emergency Dept Diff					
HZS	Detent Facility Clerical Supvr					
HZX	Detent Facilities Differential					
M19	CALWORKS Differential					
M43	In Lieu of Def Comp Bene-Elect					
M48	Performance Stipend					
M49	Annual Registrar Stipend					
REP	Additional Pay - Elections					
RSD	DSA School Security Detail					
RSF	Additional Pay County Fair					
SH2	Shift Pay @ 5%					
SH3	Shift Pay @ 7.5%					
SNS	Shift Pay - Night					
SH4	Shift Pay @ 10%					
SH5	Shift Pay @ 12%					
SH7	Shift Pay @ 15%					
SHC	Shift Loc 1 Double Premium					
SHD	Shift CNA Double Premium					
SHG	Shift Clerical Grave Yard Pay					
SWE	Differential Even Watch Shift					
SWM	Differential Morn Watch Shift					
D30	Differential DSA NonSworn Trng					
F78	Fire Temp Training Diff 40hr					
D39	Differential In House OB GYN					
D98	Differential Physican FallBack					
DK9	Differential K9 Premium					
E09	Differential Canine Team					
AC1	POST Cert Allow 2.5%	Yes	No	Yes	No	This pay is for certificates or assignments beyond the minimum requirements of the class. As such, it would be excluded as compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of all employees in the same job classification and not an essential part of the job function). Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
AC2	POST Cert Allow 5%					
C11	Certificate Agriculture Commn					
C12	Certificate Weights/Measurers					
C15	Certificate Prof Dev Tr/TaxCol					
C25	Certificate Ca Prof Engineer					
C39	Certificate Prof Accounting					
C73	Cert Elect/Regist Admin Diff					
E71	Differential GS Driver Clerk					

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- (iv) Pay is paid pursuant to publicly available pay schedules

Pensionable Compensation
Under Government Code Section 7522.34

Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
M51	RDA Meeting Stipend	No	No	Yes	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. only paid when meetings are attended), as well as NOT "paid to similarly situated members of the same grade or class of employment" (i.e. not required of employees in the same job classification). Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
M52	Assessmt Appeals Brd Stipend					
M55	LAFCO Meeting Stipend					
M58	Retirement Board Stipend					
M56	FCWCD Meetings Stipend	No	Yes	Yes	No	Excluded payment for compensation inconsistent with the requirements of subdivision (a) under 7522.34(c)(11), since it is NOT "the normal monthly rate of pay or base pay" (i.e. only paid when meetings are attended). Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
VTW	Voluntary Temporary Waiver	Yes	Yes	No	No	This is a reduction in salary and therefore a reduction in pensionable compensation.
D37	Differential Word Processing	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
F77	Fire Traing/Prevnt Captains					
F20	Fire Scheduled FLSA Pay	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
F21	Fire Sched FLSA - Additional					
F22	Fire Dispatchers Schd FLSA Pay					
F29	Fire Schedule FLSA Adjustment					
D73	Differential Longevity Law Enf	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
D74	Diff Longevity Law Enf 7%					
F08	Fire Mgmt Longevity Pay					
F18	Fire Mgmt Longevity 15 years					
F34	Rodeo Fire Longevity					
L04	Longevity Pay @ 2.00%					
L05	Longevity Pay @ 2.5%					
L06	Longevity Pay @ 5%					
L07	Longevity Pay @ 7.00%					
L08	Longevity/Mgmt Inc Exempt @ 5%					
L09	Longevity Exempt @ 7.5 %					
L10	Longevity Pay @ 4.50%					
L11	Longevity Pay @ 6.50%					
L15	Longevity CNA 7 years					
L16	Longevity CNA 10 years					
L17	Longevity CNA 15 years					
L18	Longevity CNA 20 Years					
L25	Longevity Nurs Mgmt 7 yrs					
L26	Longevity Nurs Mgmt 10 yrs					
L27	Longevity Nurs Mgmt 15 yrs					
L28	Longevity Nurs Mgmt 20 yrs					
M57	Bi-Lingual Pay	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
M65	Bilingual Pay					
M80	Bi Lingual Pay \$80					
M85	Bi-Lingual Pay Safety					
HP1	Holiday Pay 1	Yes	Yes	Yes	No	Excluded payments, since it does not appear on the County's publicly available salary schedule. Thus, this pay code would be classified as EXCLUDED from pensionable compensation.
HP2	Holiday Pay @ 1.50					
HP3	Holiday Pay @ 1.00					
HCE	Holiday Comp Excess Hours Pay					EXCLUDED payments for unused leave under 7522.34(c)(5).
HPR	Holiday Comp Hrs Pay Off - Ret					
PHP	Personal Holiday Hrs Pay Off					
PLP	PersHoliday Pay Off - L 2.5%					
PP1	Pers Hol Pay Off L 10%					
PP3	Pers Hol Pay Off L 7.0%					
PP4	Pers Holiday Pay Off L 4.50%					
PP5	Pers Hol Pay Off L 5%					
PP6	Pers Holiday Pay Off L 6.50%					

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(iv) Pay is paid pursuant to publicly available pay schedules

Pensionable Compensation Under Government Code Section 7522.34						
Pay Code	Pay Code Name	GC 7522.34(a)				Comments
		(i)	(ii)	(iii)	(iv)	
PP7	Pers Hol Pay Off L 7.5%					
S01	Sick Leave Hours Pay Off					
SBP	Sabbatical Hours Pay Off					
V01	Sale of Vacation					
V02	Vacation Hours Pay Off					
V11	Sale of Vacation L 2.5%					
V12	Vacation Pay Off L 2.5%					
V21	Sale of Vacation L 5.0%					
V22	Vacation Pay Off L 5.0%					
V31	Sale of Vacation L 7.5%					
V32	Vacation Pay Off L 7.5%					
V41	Sale of Vacation L10.0%					
V42	Vacation Pay Off L10.0%					
V52	Vacation Pay Off L 4.50%					
V62	Vacation Pay Off L 6.50%					
V72	Vacation Pay Off L 7.00%					
VAD	Adjustment Sale of Vacation					
D15	Differential Call Back					EXCLUDED payments for additional services rendered outside of normal working hours under 7522.34(c)(6).
D16	Differential Phys Call Back					
D19	Differential Call Back @ 1.5					
D21	Differential Phone Call Back					
D25	Differential Lieut On-Call					
D26	Differential On Call DSA/DAI					
D32	Differential On Call Pay @ 1.0					
D33	Differential On Call					
D36	Differential On Call Local 1					
D41	Differential Office of Emg Svc					
E39	Differential OBGYN On Call					
F62	Fire Recall/Standby ECCCCFPD					
F67	Fire Recall & Standby @ 5%					
F68	Fire Investigation Standby					
F72	Fire Recall & Standby @ 2.5%					
F80	Differential Off Duty Standby					
A15	Allowance First 5 Cell Phone					EXCLUDED allowances under 7522.34(c)(7).
A58	Truck Allowance					
A64	Uniform Allowance \$25					
A75	Uniform Allowance East FD					
A76	Uniform Allowance Rodeo Fire					
A79	Uniform Allowance - Fire					
A80	Uniform Allowance					
A81	Uniform Allowance Sheriff					
A82	Uniform Allow Sher Mgmt					
A83	Uniform Allow - \$50					
A99	Adjustment Uniform Allowance					
AU1	Auto Allowance					
AU2	Auto Allowance 2					
AU3	Auto Allow Department Heads					
AUT	Auto Allow Elected Dept Head					
ORS	Overtime Normal Work Scheduled					EXCLUDED payment for overtime pay under 7522.34(c)(8).
B79	Bonus Special Pay					This bonus is a performance incentive awarded to those department heads as approved by the County administrator. This pay is an EXCLUDED bonus under 7522.34(c)(3) and (10).
LSP	Lump Sum Pay					This bonus is a negotiated lump sum payment. This pay is an EXCLUDED bonus under 7522.34(c)(3) and (10).
RPR	Lump Sum Pay					

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Byron-Brentwood-Knightsen Union Cemetery District**

		Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a) (i) (ii) (iii) (iv)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
Pay Type	Pay Code						
Base Salary	REG		Yes	Yes	Yes	Yes	No
Vacation Payout	VAC	(5)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Rodeo Sanitary District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary	REG		Yes	Yes	Yes	Yes	No
Vacation Payout	VAC	(5)					
On Call Pay	OC	(6)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Housing Authority of the County of Contra Costa**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Conditions Satisfied under GC §7522.34(a)				Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary	REG		Yes	Yes	Yes	Yes	No
Pay for a Retroactive Pay Rate Increase	R		Yes	Yes	Yes	Yes	Yes
Longevity Pay	L		Yes	Yes	Yes	No	Yes
Bilingual Differential	D		Yes	Yes	Yes	No	Yes
Vacation Payout	P	(5)					
Sick Payout	S	(5)					
Termination Payout (of leave balances)	T	(5)					
On Call Pay	O	(6)					
Auto Allowance	N	(7)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Contra Costa County Superior Court**

Pay Type	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
		(i)	(ii)	(iii)	(iv)	
Base Salary		Yes	Yes	Yes	Yes	No
Bilingual Pay		Yes	Yes	Yes	No	Yes
Certified Real Time Court Reporter Pay		Yes	No	Yes	No	Yes
Clerk in Courtroom		No	No	Yes	No	Yes
Court Clerk Trainer Differential		No	No	Yes	No	Yes
Court Reporting (Basic Readability 5%)		Yes	No	Yes	No	Yes
Custodian to Lead		No	No	Yes	No	Yes
Facilities to Clerk IV		No	No	Yes	No	Yes
Lead Court Rptr. Cert. Basic (first 6 mos.)		Yes	No	Yes	No	Yes
Lead Court Rptr. Cert. Basic (after 6 mos.)		Yes	No	Yes	No	Yes
Lead Court Rptr. Cert. CRR		Yes	No	Yes	No	Yes
Lead Court Rptr. (first 6 mos.)		No	Yes	Yes	No	Yes
Lead Court Reporter (after 6 mos.)		No	Yes	Yes	No	Yes
Lead Legal Research Atty Differential		No	No	Yes	No	Yes
Longevity		Yes	Yes	Yes	No	Yes
Lump Sum Pay	(3)(10)**					
Night Shift Differential		No	No	Yes	No	Yes
Flex Benefit	(2)*	No	No	No	No	Yes
Share the Savings	(2)*	No	No	No	No	Yes
Admin Payoff Longevity	(5)					
Admin Payoff Retire	(5)					
Holiday Comp Payout	(5)					
Holiday Excess Comp Hours	(5)					
Holiday Hours Retire	(5)					
Personal Holiday Longevity	(5)					
Personal Holiday Retire	(5)					
Vacation Payoff Hours Longevity	(5)					
Vacation Payoff Retire	(5)					
Vacation Sale	(5)					
Vacation Sale Longevity	(5)					
Auto Allowance	(7)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* This pay item is excluded if the compensation was previously paid directly by the employer to a third party (e.g. health or life insurer) for the benefit of the member AND converted to and received by the member in form of a cash payment.

** Used for adjustments for prior periods. Depends on the nature of the adjustment.

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Contra Costa Mosquito & Vector Control District**

Pay Type	Pay Code	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary	REG		Yes	Yes	Yes	Yes	No
Merit (Performance) Pay	LNG		Yes	No	Yes	No	Yes
Medical Waiver	MED	(2)*	No	No	No	No	Yes
Safety Award	SAF	(10)**	No	No	No	No	Yes
Vacation Cashout	VAC	(5)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* This pay item is excluded if the compensation was previously paid directly by the employer to a third party (e.g. health insurer) for the benefit of the member AND converted to and received by the member in form of a cash payment.

** This pay item could be viewed as a bonus.

References from contracts and memoranda of understanding

	Local 1021 MOU	Employee Handbook
Merit Pay	Page 6	Page 100
Medical Waiver	Page 14	Page 50
Safety Award	Safety Incentive.doc	

Determination of "Pensionable Compensation" under Gov. Code §7522.34

For Moraga Orinda Fire District

Pay Type	Pay Code	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary (Including FLSA, SDI, WC)	REG, 235-237, 333, 334		Yes	Yes	Yes	Yes	No
Fire Retirement Allowance	120	under review	Yes	Yes	Yes	Yes	Yes*
Holiday Pay	215		Yes	Yes**	Yes	Yes	Yes
Education incentive pay	110-112		Yes	No	Yes	No	Yes
Shift differential	115		No	No	Yes	No	Yes
Longevity Pay	113		Yes	Yes**	Yes	No	Yes
Ambulance stipend	124		No	No	Yes	No	Yes
Vacation buy-back	208	(5)					
Vacation payoff	206, 207	(5)					
Floating holiday payoff	217, 218	(5)					
Sick leave payoff	211	(5)					
Call back pay	114	(6)					
Uniform Allowance	180	(7)					
Overtime (Excluding FLSA)	OT, 137, 156	(8)					
Stipend in lieu of Medical	901, 902	(9)					
Deferred comp 457(b)	901, 902	(9)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* The Fire Retirement Allotment is a 3.91% increase in base pay to help offset the cost of the retirement plan. The MOUs refer to this being an implementation of IRC Section 414(h)(2), however, this pay increase is paid to the employees, not to the retirement system.

** These items are generally available to everyone in the same grade, except for battalion chiefs

Holiday Pay	Only paid to battalion chiefs promoted after December 31, 2010
Longevity Pay	Only paid to battalion chiefs promoted on or before December 31, 2010
Education incentive pay	Different for battalion chiefs promoted before and after December 31, 2010

References from contracts and memoranda of understanding

	Local 1230	Battalion Chief Division Chief	Fire Chief	Local 2700	Admin. Services Director	Assistant Fire Marshall
Fire Retirement Allotment	Page 7	Page 11	Page 2	Page 7	Page 4	Page 5
Holiday Pay	Page 11	Page 6	N/A	N/A	N/A	N/A
Education incentive pay	N/A	Page 4	N/A	Page 7	1st AMD	Page 3
Shift differential	N/A	Page 11	N/A	N/A	N/A	N/A
Longevity Pay	N/A	Page 4	N/A	N/A	N/A	N/A
Ambulance stipend	Side Letter	N/A	N/A	N/A	N/A	N/A

Determination of "Pensionable Compensation" under Gov. Code §7522.34

For San Ramon Valley Fire Protection District

Pay Type	Pay Code	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Salary (including FLSA)			Yes	Yes	Yes	Yes	No
Acting Pay			No	No	Yes	No	Yes
Permanent Acting Pay			Yes	No	Yes	No	Yes
Emrg. Medical Dispatch Pay			No	No	Yes	No*	Yes
Holiday Pay			Yes	Yes	Yes	No*	Yes
Longevity Pay			Yes	Yes	Yes	No*	Yes
Management Incentive Pay			Yes	Yes	Yes	No*	Yes
Rescue Team Diff.			No	No	Yes	No*	Yes
Haz. Mat. Team Diff.			No	No	Yes	No*	Yes
Haz. Mat. Non-entry Diff.			No	No	Yes	No*	Yes
Basic Life Support Diff.			Yes	Yes	Yes	No*	Yes
Advance Life Support Diff.			No	No	Yes	No*	Yes
Paramedic Preceptor Pay			No	No	Yes	No	Yes
Stand-by Pay		(6)					
Vehicle Allowance		(7)					
Contract Parity Differential		(7)					
Overtime (Excluding FLSA)		(8)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* These items are on the pay schedule, but the association with specific job titles is not indicated.

References from contracts and memoranda of understanding

	Local 3546	Non-represented
Acting Pay	16, 26	4, 12
Permanent Acting Pay	16, 26	N/A
Emrg. Medical Dispatch Pay	16	N/A
Holiday Pay	10-11, 16	7, 12
Longevity Pay	16	7, 12
Management Incentive Pay	N/A	7
Rescue Team Diff.	10, 16	N/A
Haz. Mat. Team Diff.	10, 15	6, 12
Haz. Mat. Non-entry Diff.	10, 15	N/A
Basic Life Support Diff. (req'd)	9, 15	N/A
Advance Life Support Diff.	9, 15	7, 12
Paramedic Preceptor Pay	10, 16	N/A

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Central Contra Costa Sanitary District**

Pay Type	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
		(i)	(ii)	(iii)	(iv)	
Base Salary		Yes	Yes	Yes	Yes	No
Provisional Appt		Yes	Yes	Yes	Yes	Yes
Out-Of-Class Pay		No	No	Yes	No	Yes
Swing Differential		No	No	Yes	No	Yes
Night Differential		No	No	Yes	No	Yes
Longevity Pay		Yes	Yes	Yes	No	Yes
Registration Differential		Yes	No	Yes	No	Yes
Medical Waiver	(2)*	No	No	No	No	Yes
Cafeteria Plan	(2)*	No	No	No	No	Yes
Class A/B License Pay		No	No	Yes	No	Yes
Annual Vacation Sell Back	(5)					
Terminal Pay - Sick Leave	(5)					
Stand By Pay	(6)					
Meal Allowance	(7)					
Scheduled Holiday Overtime	(8)					
Scheduled Holiday Swing Overtime	(8)					
Scheduled Holiday Night Overtime	(8)					
Scheduled Holiday Double-time	(8)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

* These pay items are excluded if the compensation was previously paid directly by the employer to a third party (e.g. health or life insurer) for the benefit of the member AND converted to and received by the member in form of a cash payment.

References from contracts and memoranda of understanding

	Local 1	Management	Mgmt Support/ Confidential Group
Provisional Appt	Not in MOU	Not in MOU	Not in MOU
Out-Of-Class Pay	Page 4	?	Page 5
Swing Differential	Page 5	N/A	Page 7
Night Differential	Page 5	N/A	Page 6
Longevity Pay	Page 4	Page 8	Page 4
Registration Differential	Page 34	Page 8	Page 6
Medical Waiver	Page 31	Page 4	Page 20
Cafeteria Plan	Page 35	Page 8	Page 17
Class A/B License Pay	Page 7	N/A	N/A

**Determination of "Pensionable Compensation" under Gov. Code §7522.34
For Bethel Island Municipal Improvement District**

Pay Type	Pay Code	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Conditions Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
			(i)	(ii)	(iii)	(iv)	
Base Pay	REG		Yes	Yes	Yes	Yes	No
Vacation Payout	VAC	(5)					

Conditions under Gov. Code §7522.34(a)

- (i) Pay is part of the normal monthly rate of pay or base pay of the member
- (ii) Pay is paid in cash to similarly situated members in the same grade or class of employment
- (iii) Pay is for services rendered on a full-time basis during normal working hours
- (iv) Pay is paid pursuant to publicly available pay schedules

Exclusions determinable by the Board under Gov. Code §7522.34(c)

- (1) Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
- (11) Any other form of compensation the Board determines is inconsistent with the requirements of Gov. Code §7522.34(a).
- (12) Any other form of compensation the Board determines should not be pensionable compensation.

7522.34. (a) "Pensionable compensation" of a new member of any public retirement system means 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.

(b) Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

(c) "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 under that system.

(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).

(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a).

(12) Any other form of compensation a public retirement board determines should not be pensionable compensation.