

Memorandum

Date: September 4, 2013

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

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

Subject: Update Regarding Analysis of Whether Pay Items Beyond Base Pay Meet
The Statutory Requirements For "Pensionable Compensation" Under PEPR
G.C. Section 7522.34 (eff. 1/1/13)

At its April 10, 2013 meeting, the CCCERA Board of Retirement reviewed a preliminary analysis of pay items beyond "base pay" for CCCERA participating employers to determine whether any of the pay items meet the statutory requirements set forth in the California Public Employees' Pension Reform Act of 2013 ("PEPRA") so as to be included in "pensionable compensation." The Board voted to accept the analysis as to pay items that met the first three of the four statutory requirements of pensionable compensation, which are as follows:

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

(Govt. Code § 7522.34, included as Attachment 1.)

As directed by the Board, staff provided the analysis to employers, and met with employers and interested parties to discuss specific pay items at issue. As a result, staff is now recommending a few modifications based on information obtained through the verification process. County pay item spreadsheets are included as Attachment 2, and special districts pay item spreadsheets are included as Attachment 3.

Also included in this memorandum is an update regarding possible legislation and CalPERS' current implementation of "pensionable compensation" under the identical PEPRA statute.

Lastly, direction is requested regarding the standards to be used for the "publicly available pay schedules" requirement in PEPRA.



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Note that this update and recommendation relates to the implementation of "pensionable compensation" under PEPPRA 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. Background

On September 12, 2012, Governor Edmund G. Brown Jr. signed PEPPRA, which became effective on January 1, 2013. At the December 12, 2012 CCCERA Board meeting, the Retirement Board determined that "pensionable compensation" under PEPPRA is limited to base pay but that the determination is subject to being revisited based on future developments in the law, and also on any future positions taken by CalPERS.

On December 27, 2012, CalPERS published a Circular Letter to its participating employers with information regarding PEPPRA. CalPERS' circular stated that CalPERS intends to promulgate regulations to, among other things, include a list of these additional pay items as "pensionable compensation" which CalPERS' participating employers would be reporting as pensionable. CalPERS statutes and regulations refer to these pay items as "special compensation," which includes certification pay, special shift or assignment pay, longevity and bilingual bonuses, etc.

In light of this development, the Board directed CCCERA staff to conduct an analysis of all pay items beyond base pay for all participating employers in order to determine whether they meet the definition of "pensionable compensation." On April 10, 2013, staff presented a preliminary analysis which included detailed spreadsheets for all pay items under consideration. (See Attachment 4.) The Board adopted the analysis as to those pay items that met the first three requirements (1. Normal monthly rate of pay or base pay; 2. Paid to similarly situated members of the same group or class of employment; 3. Paid for services rendered during normal working hours) and directed staff to advise the employers of the analysis and of the fourth requirement, namely, that the pay be included in the employer's publicly available pay schedules.

Staff has completed this process, and provides the following update on current developments in this matter, as well as recommendations as to certain specific pay items. Additionally, staff is requesting direction from the Board regarding how to proceed with the "publicly available pay schedule" requirement.

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. Update Regarding Current Developments

There was discussion at the SACRS spring conference about the lack of clarity in the statute and the different interpretations and implementation approaches undertaken by the retirement systems governed by PEPRAs. Curiosity abounds about why PEPRAs include CalPERS' payrate base pay statutory language but not CalPERS' special compensation statutory² and regulatory language.

CalPERS' staff reported at a public meeting in June 2013 that it would not be moving forward with any specific recommendations and that proposed regulations are not likely before September 2013. CalPERS' staff reported that they would continue to watch for legislative developments. It was noted that future changes in interpretation may require adjustments to contributions currently being collected by CalPERS employers on special compensation items for PEPRAs members. As of the date of this writing, we understand that CalPERS continues to collect contributions on "special compensation" pay items, but has yet to reach final conclusions or issue proposed regulations on these items. According to CalPERS' website, the December 2012 Circular list of special compensation items "is preliminary and is subject to change pending possible legislative change and/or with the promulgation of regulations."

The California Department of Finance is reportedly reviewing this issue and whether clarifying legislation is appropriate. It is unknown at this time if any statutory changes will occur and whether "special compensation" pay items will be included. SB 13, which is a pending PEPRAs clean-up bill, does not make any changes to this particular provision of PEPRAs, Govt. Code Section 7522.34(a).

III. CCCERA Report and Recommendations Relating to Pay Items

A. Bilingual Pay

The preliminary analysis presented in April classified bilingual pay as meeting the first three statutory requirements. Upon further review and verification with CCCERA employers who offer bilingual pay, it appears that:

- Bilingual pay is not necessarily paid on an ongoing and recurring basis. The pay is not necessarily paid on a permanent basis, but rather, could be paid on a temporary basis.
- Bilingual pay is not paid to everyone in the same job classification, but only to those as assigned within the discretion of the employer

² As discussed in December 2012, for "classic" (Pre-PEPRAs) CalPERS members, pensionable compensation is defined to have two components: "payrate" and "special compensation." "Payrate" is the normal monthly rate or pay or base pay, while "special compensation" is "payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions." (See G.C. § 20636.) Examples of "special compensation" are: longevity and bilingual bonuses, special shift pay, P.O.S.T. or other certification pay, temporary upgrade pay. (See CalPERS Regulation § 571.)



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Recommendation:

Revise the analysis to indicate that bilingual pay fails to meet criteria 1 and 2 of the pensionable compensation analysis.

B. Differential word processing (County Pay Code D37)

The preliminary analysis classified the word processing differential as meeting the first three statutory requirements. Upon further review and verification with the County, this pay item is not applicable to PEPRA members. It is only paid to certain "classic" (pre-PEPRA) members.

Recommendation:

Remove County differential word processing (D37) from the pensionable compensation analysis.

C. Holiday Pay (County Pay Codes HP1, HP2 and HP3)

Upon further review with the County, it appears that for some members this is an additional pay paid to all in the classification on a permanent basis. For example, Contra Costa Fire District 56-hour shift employees receive 12 hours of time and one-half pay for each holiday the District observes regardless of whether the employee works on the holiday, while San Ramon Valley Fire District 56-hour shift employees receive a 6% "holiday differential" as compensation for covering shifts regardless of holidays. For others, it is not necessarily paid to all, and can be temporary or irregular. For example, for some job classifications the holiday must be worked in order to receive holiday pay and employees can volunteer to work holidays or volunteer for job assignments that require them to work holidays.

Recommendation:

Receive direction from the Board and conduct further analysis as needed.

D. Peace Officer Standards Training (P.O.S.T.) Certificate Pay (County Pay Codes AC1 and AC2)

County pay codes AC1 and AC2 are education incentives. For some positions these differentials are paid for possessing Peace Officer Standards Training ("POST") intermediate and advanced certificates which are not required by the minimum qualifications of the job classification. We have been advised by the Deputy Sheriffs Association ("DSA") that these POST certificate pay differentials may be akin to longevity pay in that it is paid based on tenure automatically and on a permanent basis. The amount of optional education one attains only affects the amount of tenure that is required to qualify for the certificate, however, unlike longevity pay, there is a voluntary component to these pay items. The POST intermediate and advanced certificate requirements are attached (as Attachment 5) and should be reviewed to determine whether the board views them as additional pay items beyond base pay that should be included in pensionable compensation for PEPRA members. There may be additional special certificate, education, or license pay items that have similar characteristics to POST certificate pay.



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Recommendation:

Receive direction from the Board and conduct further analysis as needed.

E. Publicly available pay schedules

PEPRA defines "pensionable compensation" as the normal monthly rate of pay or base pay 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(a).)

The Regulation continues, in subdivision (b), to allow for exceptions from these requirements, as determined by the PERS Board. The entire Regulation is included as Attachment 6.

These requirements (excluding subdivision (b) of the PERS regulation) were utilized to conduct the preliminary CCCERA pay item analysis presented to the Board in April. As directed by the Board, the analysis was then provided to all CCCERA participating employers, explaining the "publicly available pay schedule" methodology. A few employers within the CCCERA system already have board-approved salary schedules that include both base pay and special compensation item amounts paid for each job classification. Some, but not all employers have advised CCCERA that they would be modifying their salary schedules to include special compensation items such as longevity pay. Concerns were raised by one employer about modifying its publicly available pay schedules to include special compensation items beyond base pay, in a format and through a process that would match up with the eight requirements listed above. A concern was also raised about why CCCERA is not utilizing subsection (b) of Regulation 570.5, which allows for exceptions to the requirements when an employer fails to meet the formal requirements for a publicly available pay schedule, and why a pay item approved in an MOU adopted by the governing board would not be sufficient.



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In conducting the preliminary pay item analysis, CCCERA staff has found that the special compensation pay items appear in a variety of employer records, which are not always easy to locate:

- Salary schedules
- Memoranda of understating
- Individual employment contracts
- Side letters
- Resolutions
- Ordinances
- Regulations
- Orders, policies, bulletins, etc.

Should the Board adopt the publicly available pay schedule requirements utilized for conducting the preliminary analysis of the pay items, there would only be one record to look at for each employer – the pay schedule adopted by the governing board of the employer at a public meeting.

Should the Board adopt, instead, a broader definition of the publicly available pay schedule requirement, there would be multiple possible records addressing pay differentials paid by the various employers. In their current form, these multiple records have not necessarily been adopted by the employer's governing body at a public meeting, do not necessarily identify the position title for every employee position, do not necessarily show a special pay amount per job position; and do not necessarily indicate an effective date and date revisions.

To achieve administrative accuracy and efficiency for CCCERA and accountability and transparency on the part of the employers for the special compensation items they have agreed to pay members, a single pay schedule adopted by the governing board of the employer at a public meeting should be considered as a requirement. However, such a requirement may impose an administrative burden on the employers who would have to modify their pay schedules and provide to their governing boards for adoption at a public meeting.

Recommendation

Determine whether to continue to utilize the "publicly available pay schedules" requirements set forth in PERS Regulation 570.5(a).

F. Results

Accompanying this Memorandum are the results of the information collected regarding each pay item for each of CCCERA's participating employers, including revisions recommended by staff based on further information received. The information is contained in spreadsheets prepared by CCCERA for each employer pay items, based on documentation provided by employers to CCCERA such as: salary and total compensation schedules, excerpts from memoranda of understanding ("MOUs"), employment contracts, side letters, regulations, executive bulletins or resolutions addressing pay items and the circumstances under which they are agreed to be paid,



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and other records relevant to the analysis. County pay item spreadsheets are included as Attachment 2, and special districts pay item spreadsheets are included as Attachment 3.

Here is a summary of the pay item analysis, as revised:

- Base pay:
 - i. Regular base pay is included in employers' pay schedules and included in pensionable compensation
 - 1. Note: For Moraga Orinda Fire District, pay schedules include basic base pay as well as total base pay, which includes a "fire retirement allotment"
- As to "special" compensation pay items (differentials) above base pay:
 - i. Longevity does not appear to be pensionable compensation because it is not included in the publicly available pay schedules.
 - ii. FLSA premium overtime pay does not appear to be pensionable compensation because it is not included in the publicly available pay schedules.
 - 1. Note: For Moraga Orinda Fire District, FLSA premium pay is included in the salary schedule for each job classification; the district has been reporting FLSA pay as pensionable (and collecting contributions) for PEPRA members.
 - 2. Note: For San Ramon Valley Fire Protection District, FLSA is not included in the salary schedule; contributions are not being collected on FLSA premium overtime pay for PEPRA members.
 - iii. 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. (Example: County Pay Code F77)
 - iv. Special education 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 voluntaryThe P.O.S.T. certificate pay differential may merit further review, as noted above; other certificate pay differential may have similar characteristics to P.O.S.T certificate pay.
 - v. 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 voluntaryThe holiday pay differential may merit further analysis, as noted above



G. Next Steps/Issues to Consider

In light of the Board's decision that "pensionable compensation" under PEPRA includes items of compensation beyond base pay, we would recommend that the Board consider the following:

1. Review and provide direction regarding the pay items in the attached spreadsheets, including the pay items highlighted in this memorandum (bilingual pay, POST certificate pay, holiday pay)
2. Review and provide direction regarding the requirement that the pay be in publicly available pay schedules.
3. Review and provide direction to CCCERA's participating employers regarding which pay differentials above base pay are to be reported as "pensionable"

In recognition that the term "pensionable compensation" in PEPRA may be clarified by further legislation, regulations or resolutions, or by case law resulting from litigation, the Retirement Board should continue to reserve the authority to reconsider its treatment of these elements of pay beyond base pay under future circumstances, in light of changes in the law and other events that may occur.



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Attachment #1

Text of Government Code Section 7522.34 (Eff. Date January 1, 2013)
Pensionable Compensation

(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.

Attachment #2

**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 Procd \$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					
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					

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

Only applies to PEPPRA "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)	
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					
H22	Hazard Duty Pay					
H25	Detention Division Diff NonSw					
H2D	CNA Detent Facility Assign					
H2E	CNA Emergency Dept Diff					
H2S	Detent Facility Clerical Supvr					
H2X	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					
M51	RDA Meeting Stipend					
M52	Assessmt Appeals Brd 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.
M55	LAFCO Meeting Stipend					
M58	Retirement Board Stipend					
M56	FCWCD Meetings 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.

- (i) Part of the normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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)	
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					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	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.
M65	Bilingual Pay					
M80	Bi Lingual Pay \$80					
M85	Bi-Lingual Pay Safety					
HP1	Holiday Pay 1	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.
HP2	Holiday Pay @ 1.50 (Except IAFF 56 hr employees)					
HP3	Holiday Pay @ 1.00					
HP2	Holiday Pay @ 1.50 (IAFF 56 hr employees)	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. Further review confirmed that this pay item is paid to everyone in the same classification on a permanent basis regardless of whether or not the holiday is worked. "Shift employees (56 hours per week) shall continue to receive twelve (12) hours of overtime credit for each holiday listed in Section (A) above."

- (i) Part of the normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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)	
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%					
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 ECCCFPD					
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					
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					

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

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

Attachment #3

**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 Requirements 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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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 Byron-Brentwood-Knightsen Union Cemetery District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Requirements 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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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 Central Contra Costa Sanitary District**

Pay Type	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Requirements 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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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 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)	Requirements 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		No*	No	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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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.

* Per employer, the practice is to pay differential permanently, but MOU language does not specify permanence.

Revised 6/12/2013

**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 Requirements Satisfied under GC §7522.34(a)				Step 3 Excludable under GC §7522.34(c) (1), (11), (12)
				(i)	(ii)	(iii)	(iv)	
Total	Base Salary (Including SDI, WC)	REG, 235-237		Yes	Yes	Yes	Yes	No
Base Pay	Fire Retirement Allotment ⁽¹⁾	120		Yes	Yes	Yes	Yes	Yes
	FLSA ⁽²⁾	333, 334		Yes	Yes	Yes	Yes	Yes
	Holiday Pay ⁽³⁾	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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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.

⁽¹⁾ 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 as being an implementation of IRC Section 414(h)(2), however, this pay increase is paid to the employees, not to the retirement system.

⁽²⁾ FLSA pay is premium pay for overtime work that is required to be paid at time and one-half under Federal law. The FLSA pay item reported to CCCERA as a differential is only the one-half time portion of such hours. The straight time portion is reported as part of base pay.

⁽³⁾ Holiday pay: 56 hour shift employees receive 12 hours pay at time and one-half for each district observed holiday regardless of whether the employee works the holiday.

** 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

Revised 8/31/2013

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 Contra Costa Mosquito & Vector Control District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Requirements 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
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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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 Rodeo Sanitary District**

Pay Type	Pay Code	Step 1	Step 2				Step 3
		Excluded under GC §7522.34(c) (2) through (10)	Requirements 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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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 San Ramon Valley Fire Protection District**

Pay Type	Pay Code	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Requirements 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
FLSA ⁽¹⁾			Yes	Yes	Yes	No	Yes
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 ⁽²⁾			Yes	Yes	Yes	No*	Yes
Management Incentive Pay ⁽³⁾			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. ⁽⁴⁾			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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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.

⁽¹⁾ FLSA pay is premium pay for overtime work that is required to be paid at time and one-half under Federal law.

The FLSA pay item reported to CCCERA as a differential is only the one-half time portion of such hours.

The straight time portion is reported as part of base pay.

⁽²⁾ Holiday pay: 56 hour shift employees receive a 6% holiday differential.

⁽³⁾ Management Incentive: All managers serving in a management position, in good standing, for more than one year shall receive management incentive pay equal to 5% of the Premium Base Monthly Salary (PBMS) for Fire Engineers, Step 5.

⁽⁴⁾ Basic Life Support: Compensation in the amount of five percent (5%) per month over the premium base monthly salary (PBMS) of top step Fire Engineer will be provided to Firefighters, Fire Engineers and Fire Captains.

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

Revised 8/31/2013

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 Contra Costa County Superior Court**

Pay Type	Step 1 Excluded under GC §7522.34(c) (2) through (10)	Step 2 Requirements 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		No	No	Yes	No	Yes
Certified Real Time Court Reporter Pay		Yes	No	No	No	Yes
Clerk in Courtroom		No	No	No	No	Yes
Court Clerk Trainer Differential		No	No	No	No	Yes
Court Reporting (Basic Readability 5%)		Yes	No	No	No	Yes
Custodian to Lead		No	No	No	No	Yes
Facilities to Clerk IV		No	No	No	No	Yes
Lead Court Rptr. Cert. Basic (first 6 mos.)		Yes	No	No	No	Yes
Lead Court Rptr. Cert. Basic (after 6 mos.)		Yes	No	No	No	Yes
Lead Court Rptr. Cert. CRR		Yes	No	No	No	Yes
Lead Court Rptr. (first 6 mos.)		No	Yes	No	No	Yes
Lead Court Reporter (after 6 mos.)		No	Yes	No	No	Yes
Lead Legal Research Atty Differential		No	No	No	No	Yes
Longevity		Yes	Yes	Yes	No	Yes
Lump Sum Pay	(3)(10)**					
Night Shift Differential		No	No	No	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)					

The requirements under Gov. Code §7522.34(a) are that pay must be:

- (i) The normal monthly rate of pay or base pay of the member
- (ii) Paid in cash to similarly situated members in the same grade or class of employment
- (iii) For services rendered on a full-time basis during normal working hours
- (iv) 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.

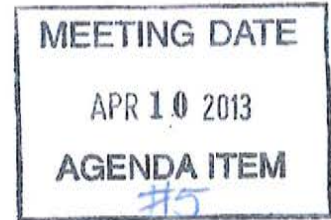
* This pay item is excluded if the compensation was previously paid directly by the employer to a third party (e.g. health or life insurer) for the benefit of the member AND converted to and received by the member in form of a cash payment.

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

Revised 6/12/2013

Attachment #4

Memorandum



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;



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- (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 PEPRA 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.

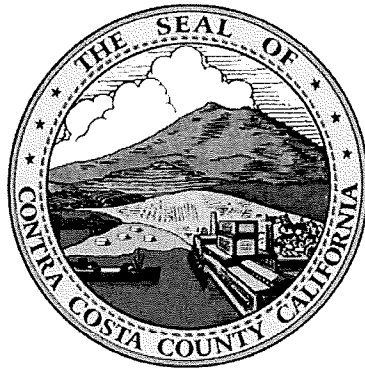


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Attachment #5

Contra Costa County

Salary Regulations



Human Resources Department

SECTION 17

PEACE OFFICER TRAINING

17.1 Incentive Program – Purpose: *In accordance with the policies expressed in Penal Code Sections 13500 and following, and in Chapter 2 of Title 11 of the California Administrative Code (Sections 1000 and following), and to attract law enforcement officers with high education standards; to broaden the professional experience of present officers and to maintain a high quality police service to cope with increased demands placed upon this function, there is established the following career incentive program, which provides a career incentive allowance based on two and one-half (2½) percent of base pay for possessing the first P.O.S.T. Certificate (intermediate or advanced) not required by the minimum qualifications of the class, and an additional allowance based on two and one-half (2½) percent of base pay per month for possessing a second P.O.S.T. Certificate (advanced) not required by the minimum qualifications of the class. (Ord. 73-64 §1, 72-60 §2 (part), 69-31 §1 (part); prior code §2441.2(a); prior Ord. Code §36-8.802)

17.2 Incentive Program – Definitions:

(a) Unless otherwise specified or required by the context, the following terms have the following meanings in Section 16.

(b) "Officer" means any peace officer member of the Sheriff's Department, District Attorney's Office, Marshal's Office or Constable's Office, who has successfully completed at least one probationary period and who occupies a permanent full-time position, in pay status, as a peace officer in this County.

(c) "Intermediate peace officer standards and training certificate" and "advanced peace officer standards and training certificate" have the meaning(s) defined in the regulations of the Commission on Peace Officer Standards and Training of the California State Department of Justice (P.O.S.T.). (Ords. 72-60 §2 (part), 71-31 §1, 69-31 §1 (part); prior code §2441.2(b); prior Ord. Code §36-8.804)

17.3 Incentive Program – Intermediate Certificate: Every officer below the class of Lieutenant in the Sheriff's Department, District Attorney Investigator Grade II in the District Attorney's Office, or Deputy Marshal I in the Marshal's Office, shall receive a career incentive allowance of two and one-half (2½) percent of base pay per month for the possession of a valid intermediate P.O.S.T. certificate. (Ords. 73-64 §2, 72-60 §2(part), 71-31 §2, 69-31 §1(part); prior code §2441.2(c); prior Ord. Code §36-8.806)

17.4 Incentive Program – Advanced Certificate: Every officer up to and including the class of Lieutenant in the Sheriff's Department, District Attorney Investigator Grade II in the District Attorney's Office or Deputy Marshal II in the Marshal's Office shall receive a career incentive allowance of two and one-half (2½) percent of base pay per month for the possession of a valid advanced P.O.S.T. Certificate. (Ords. 73-64 §3, 72-60 §2(part); 71-31 §3, 69-31 §1(part); prior code §2441.2(d); prior Ord. Code §36-8.808)

17.5 Incentive Program – Pay Status: These allowances shall be in addition to regular compensation and shall not be considered part of the base pay for payroll computation purposes. (Ords. 72-60 §2(part), 69-31 §1(part); prior code §2441.2(e); prior Ord. Code §36-8.810)

* For Peace Officer Training Fund, see Chapter 62-6, County Ordinance Code.

Intermediate certificate				
Must already possess a basic POST certificate				
Years of Service:	Education:	Training Points:		
2	Bachelor Degree	0		
4	Associate Degree	0		
4	45 Education Points	45 Training Points		
6	30 Education Points	30 Training Points		
8	15 Education Points	15 Training Points		
Advanced certificate				
Must already possess a basic and intermediate POST certificate				
Years of Service:	Education:	Training Points:		
4	Master Degree	0		
6	Bachelor Degree	0		
9	Associate Degree	0		
9	45 Education Points	45 Training Points		
12	30 Education Points	30 Training Points		

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I was going through POST training records and noticed that you don't have your advanced certificate but might be eligible soon! Below is some helpful information so you can evaluate your status. I would be happy to send you a copy of your POST profile if you would like to see where you stand with training points. If you are eligible, let me know and I can send you the application. I can mail it off a few business days before your "anniversary" date, but not much more than that or else POST will reject it with a nice little note that you are not eligible because you lack the time.

Requirements for Advanced Certificate:

Advanced Certificate (Time as a full time, full sworn police officer and must possess or be eligible for Intermediate)

With (4) years of service; minimum of a Masters Degree

With (6) years of service; minimum of a BA

With (9) years of service; minimum of a AA OR 45 education points and 45 training points

With (12) years of service; 30 education points and 30 training points

What are training points?

Training points are a cumulative total of all training (LE related) that you have attended. In order to determine your training point total, you add all of your training hours together and divide by (20) and that will give you your training points.

What are education points?

Education must be obtained by an accredited college for it to be applied towards your certificate and an official transcript is required to submit to POST along with your application. For each semester of college, it is equal to one training point. Each college quarter is equal to 2/3 of an education point. If you exceed the minimum number of education points you need, they can carry over and count as training points. Most people are surprised when they start pulling transcripts how many points they actually have.

Basic Academy credit

The #1 fact that most people are not aware of is that if you received college credits for your Basic Academy, you cannot use your hours towards training points. If you have enough college outside of what you earned for the academy you can use your academy towards training points and in most cases the Basic Academy equals approximately 41 to 51 training points (depending on the number of hours your class was). Another little known fact is that most people earn anywhere from 17 to 23 semester points from their respective academy (again, this depends on the number of hours and the college affiliated with your Academy).

If you have any additional questions, let me know.

Excerpted From Regulation 1011 of the California Code of Regulations

1011(a)(7) Intermediate Certificate Award Requirements

Applicants for the award of an Intermediate Certificate shall:

- (A) Satisfy the requirements specified in Regulation 1011(a)(4).
- (B) Possess or be eligible to possess the Basic Certificate for the current position.
- (C) Satisfy one of the following eligibility combinations:

Degree or Education Points*		Law Enforcement Experience		Training Points
Bachelor Degree	and	2 years	plus	0
Associate Degree	and	4 years	plus	0
45 Education Points	and	4 years	plus	45
30 Education Points	and	6 years	plus	30
15 Education Points	And	8 years	plus	15

*Excess education points may be applied towards training points on a point-for-point basis [reference Regulation 1011(a)(3)(D)].

1011(a)(8) Advanced Certificate Award Requirements

Applicants for the award of an Advanced Certificate shall:

- (A) Satisfy the requirements specified in Regulation 1011(a)(4).
- (B) Possess or be eligible to possess the Intermediate Certificate.
- (C) Satisfy one of the following eligibility combinations:

Degree or Education Points*		Law Enforcement Experience		Training Points
Master Degree	and	4 years	plus	0
Bachelor Degree	and	6 years	plus	0
Associate Degree	and	9 years	plus	0
45 Education Points	and	9 years	plus	45
30 Education Points	and	12 years	plus	30

*Excess education points may be applied towards training points on a point-for-point basis [reference Regulation 1011(a)(3)(D)].

Attachment #6

2 California Code of Regulations § 570.5

§ 570.5. Requirement for a Publicly Available Pay Schedule.

(a) For purposes of determining the amount of “compensation earnable” pursuant to Government Code Sections 20630, 20636, and 20636.1, payrate shall be limited to the amount listed on 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.

(b) Whenever an employer fails to meet the requirements of subdivision (a) above, the Board, in its sole discretion, may determine an amount that will be considered to be payrate, taking into consideration all information it deems relevant including, but not limited to, the following:

(1) Documents approved by the employer's governing body in accordance with requirements of public meetings laws and maintained by the employer;

(2) Last payrate listed on a pay schedule that conforms to the requirements of subdivision (a) with the same employer for the position at issue;

(3) Last payrate for the member that is listed on a pay schedule that conforms with the requirements of subdivision (a) with the same employer for a different position;

(4) Last payrate for the member in a position that was held by the member and that is listed on a pay schedule that conforms with the requirements of subdivision (a) of a former CalPERS employer.