



San Bernardino County Employees' Retirement Assoc.

Staff Report Details (With Text)

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| File #: | 19-801 | Name: | |
| Type: | Consent Item | | |
| File created: | 2/19/2020 | In control: | BOARD OF RETIREMENT |
| On agenda: | 3/5/2020 | Final action: | |
| Title: | Approve SBCERA Resolution No. 2020-2 - Employer Pay Codes of Employee Compensation. | | |
| Sponsors: | | | |
| Indexes: | | | |
| Code sections: | | | |
| Attachments: | 1. Exhibit A: Pay Code Resolution 2020-2 Redline, 2. Exhibit B: Summary of Changes to Pay Code Resolution 2020-2 | | |

| Date | Ver. | Action By | Action | Result |
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FROM: Amy McInerney, Chief Financial Officer

SUBJECT: SBCERA Resolution 2020-2 - Employer Pay Codes of Employee Compensation

RECOMMENDATION:

Approve SBCERA Resolution No. 2020-2 - Employer Pay Codes of Employee Compensation.

BACKGROUND:

The SBCERA Board of Retirement (Board) is required by Government Code Sections 31461, 31542, 7522.10, and 7522.34, as well as Board Benefits Policy No. 26, *Compensation Earnable and Pensionable Compensation*, to determine what items of member compensation are included or excluded in employee compensation upon which appropriate contribution rates should be applied and upon which retirement benefits are calculated. When an employer presents a new pay item/code, SBCERA staff initially determines whether such items will be considered “compensation earnable” or “pensionable compensation, which determination will be effective immediately, subject to ratification by the Board.

On January 9, 2020, the Board reviewed and adopted a pay code resolution. Since the adoption, staff reviewed one additional pay code request from participating employers and made the following determination.

| Employer | Pay Item / Code | Earnable Compensation (Tier I) | Pensionable Compensation (Tier II) |
|--------------------------|--|--------------------------------|------------------------------------|
| County of San Bernardino | Differential - Special Operations Division | Yes | Yes |

| | | | |
|--------------------------|------------------------------------|-----|----|
| County of San Bernardino | Chief Officer Coverage Pay Premium | Yes | No |
| County of San Bernardino | Chief Officer Coverage Pay | Yes | No |

Based on the initial determination, staff requests that the Board ratify staff's determination of the inclusion or exclusion as compensation earnable or pensionable compensation of the above pay item/code.

SBCERA currently includes in compensation earnable certain types of pay that are considered in Alameda (standby, on call, and call back) and legal principles applicable to the potential exclusion of those pay types are also addressed in Alameda (collectively "Litigated Compensation Earnable Pay Codes"). In light of the legal uncertainty regarding the authority of the SBCERA Board to exclude the Litigated Compensation Earnable Pay Code items from compensation earnable, and the likelihood that Alameda will resolve that uncertainty, staff recommends that the Board defer action on any potential prospective exclusion of the Litigated Compensation Earnable Pay Codes.

The resolution (Exhibit A) provides a redline version of the changes which includes Exhibits A through L sets out by employer these existing items of compensation, identified by employer pay codes, which will be included in compensation earnable for Tier I members, and Exhibit M sets out pensionable compensation for Tier II members, effective March 5, 2020 for all employers. Exhibit B is a summary of changes to the pay codes.

The resolution is intended to comply with the requirements of the Internal Revenue Code of 1986, the 1937 Act, PEPPRA, and the regulations issued thereunder as applicable.

BUDGET IMPACT:

None.

STRATEGIC PLANNING GOAL/OBJECTIVE:

Prudent Fiscal Management

STAFF CONTACT:

Amy McInerney

ATTACHMENTS:

Exhibit A: Pay Code Resolution 2020-2 Redline

Exhibit B: Summary of Changes to Pay Code Resolution 2020-2