



# BOARD OF RETIREMENT

## Staff Report

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**File #:** 19-618.1

**Agenda Date:** 11/7/2019

**Agenda #:** 21.

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**FROM:** Amy McInerny, Chief Financial Officer

**SUBJECT:** SBCERA Resolution 2019-4 - Employer Pay Codes of Employee Compensation

**RECOMMENDATION:**

Approve SBCERA Resolution No. 2019-4 - 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 September 5, 2019, the Board reviewed and adopted a pay code resolution. Since the adoption, staff reviewed four additional pay code requests 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 - Company Officer Cert Pay	Yes	Yes
	Differential - Crew Foreman Unassigned	Yes	Yes
	Differential - Paramedic Pay (Grandfathered)	Yes	Yes
	3% Special Assignment Exempt Unit	Yes	No
	Differential Correctional Cert.	Yes	Yes
	Differential - American Institute of Certified Planners	Yes	Yes
	Differential - DNA Lead	Yes	Yes

	Differential - Community Crisis Response	Yes	Yes
	Differential - 1% Crime Scene Cert	Yes	Yes
	Differential - 2.5 % Crime Scene Cert	Yes	Yes
	Differential - 3.5% Crime Scene Cert	Yes	Yes
	Differential - Tenprint Fingerprint Cert	Yes	Yes
	Differential - Latent Print Cert	Yes	Yes
	On-Call Critical	Yes	Yes
	Differential - Supervisory Level POST	Yes	Yes
	Differential - Supervisory POST - MGT	Yes	Yes
	On-Call Fire	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) including 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 November 7, 2019 for all employers. Exhibit B provides a redline version of those changes. A summary of changes to the pay codes is attached as Exhibit C.

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 McInerny

**ATTACHMENTS:**

Exhibit A: Pay Code Resolution 2019.4

Exhibit B: Pay Code Resolution 2019.4 Redline

Exhibit C: Summary of Changes to Pay Code Resolution 2019.4