

SAN MATEO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

RESOLUTION 2020-09

**RESOLUTION DEFINING PENSIONABLE COMPENSATION
PURSUANT TO GOVERNMENT CODE §7522.34 FOR SAN MATEO COUNTY
MOSQUITO AND VECTOR CONTROL DISTRICT MEMBERS
WHO ARE NOT SUBJECT TO GOVERNMENT CODE §31461**

WHEREAS, for those San Mateo County Mosquito and Vector Control District (“District”) members who became active members on or after January 1, 2013, and who are subject to the California Public Employees’ Pension Reform Act contained in Government Code §7522 et seq., the determination of their pensionable compensation is governed by Government Code §7522.34; and

WHEREAS, the pensionable compensation for those District members who are subject to Government Code §7522.34 shall be the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules; and

WHEREAS, the Board has reviewed the current pay items and has determined which of those items are to be included in “Pensionable Compensation” and which items are not to be included; and

WHEREAS, it will be necessary for this Board, from time to time, to amend its determinations of pensionable compensation due to changes made by SamCERA employers in their compensation schedules as well as changes in the law; therefore, be it

RESOLVED, that effective April 28, 2020, resolution number 12-13-12 is rescinded, and pursuant to Government Code §7522.34 as interpreted by the courts, the Board hereby makes the following determinations to be effective April 1, 2020, for District members as to what is included in “Pensionable Compensation” and items of remuneration that are not included:

1. Pensionable compensation shall include:

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|---------------------------------------|
| Regular hours worked |
| Sick leave with pay |
| Vacation with pay |
| Personal leave with pay |
| Comp time hours used as straight time |
| Emergency FMLA Paid |
| Emergency Sick Leave |

2. Pensionable compensation, at a minimum, shall not include, in any case, the following pay items.

A. The following pay codes are not included:

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| Overtime paid |
| Accrued comp earned at time and one-half (OT) |
| Leave without pay |
| Accrued sick time paid out upon termination |
| Accrued vacation time paid out upon termination |
| Accrued comp time paid out upon termination |
| Emergency FMLA Unpaid |

B. Pursuant to Government Code §7522.34, pensionable compensation does not include the following:

1. Any compensation determined by the Board to have been paid to increase a member's retirement benefit.
2. Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
3. Any one-time or ad hoc payments made to a member.
4. Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.
5. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
6. Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.
7. Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.
8. Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.
9. Employer contributions to deferred compensation or defined contribution plans.
10. Any bonus paid in addition to the compensation described in subdivision (a) of Government Code §7522.34.

11. Any other form of compensation the Board determines is inconsistent with the requirements of subdivision (a).
12. Any other form of compensation that this Board determines should not be pensionable compensation.
3. Pursuant to Government Code §7522.10, whenever pensionable compensation, as defined in §7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the monetary limitations set forth in subdivision §7522.10.

FURTHER RESOLVED that the above listed determinations by the Board of what is included or not included in pensionable compensation, shall be in effect until such time as this Board, the Legislature or the Courts take action that as a matter of law requires a different determination.

Regularly passed and adopted, by the San Mateo County Employees' Retirement Association, Board of Retirement, on April 28, 2020.

Ayes, Trustees: Arnott, Battey, David, Hackleman, Hoefer, O'Malley, Raw and Tashman

Noes, Trustees:

Absent, Trustees: Bowler

Abstain, Trustees:



Robert Raw, Board Secretary
SamCERA