

California Public Employees' Pension Reform Act of 2013

California Public Employees' Pension Reform Act of 2013 (PEPRA), the most significant and complex pension legislation in decades was signed into law September 12, 2012. Since that time, the SCERA Board, staff and legal counsel have conducted a diligent analysis of the impact of this legislation to current and future SCERA members. On November 26, 2012 the Retirement Board passed Resolution #112 (attached) that sets forth policy regarding SCERA's administration of this legislation. A packet of supporting documents reviewed by the Board is also attached.

What It Means

In short, the legislation makes significant changes for new SCERA members hired after December 31, 2012. In contrast, there are fewer changes that apply to current SCERA members. The legislation is clearly respectful of the pension rights of existing retirement system members and retirees.

Provided below is a limited summary of SCERA's interpretation of some key provisions in the new legislation. This is not intended as an exhaustive or definitive legal document. The terms of the legislation as finally interpreted will control the administration of the plan.

Current Members (hired before January 1, 2013)

What Remains the Same

- There are no changes to current members' retirement formula (3% @ 60 for General members and 3% @50 for Safety members).
- Current members' salary for retirement purposes will still be averaged over the highest one-year equivalent of pensionable income. For employees who are less than full time, the one year equivalent is 2087 hours.
- Pensionable income: All pensionable salary received prior to January 1, 2013, which was used to calculate contributions owing, will continue to be considered for the benefit calculation, even if the member retires after that date. For example, a member might retire in 2016, but their highest average salary may have been earned in 2012. Remember, the highest average salary SCERA uses to calculate your lifetime retirement benefit does not have to be from your final year of service.

Current Members (hired before January 1, 2013)

What Will Change

For SCERA members, the 1997 Ventura Supreme Court case, and the consent decree that resolved the court cases that followed, established that particular salary items would be considered pensionable. The recent pension reform legislation clarified the law in a way that means a few salary items paid after December 31, 2012 will no longer be considered

pensionable. Therefore, these salary items that were pensionable if paid prior to January 1, 2013, will no longer be included in compensation earnable when paid from that date forward. For example:

- Employer payments to an employee's deferred compensation account paid after December 31, 2012 will be excluded.
- Cash-outs (also called buybacks) of unused vacation, sick leave or compensatory time off paid after December 31, 2012 will be included in compensation earnable only if they do not exceed what is earned and payable in one year. A cash-out of banked hours above the amount earned and payable in one year will not be included in the compensation earnable.
- Standby pay paid after December 31, 2012 will be excluded.

The legislation reinforces SCERA's ability to review compensation and reject items paid to enhance retirement benefits. Examples may include:

- Reimbursement allowances (like a car allowance) will not be included in highest average salary if they were previously received in-kind and converted to a cash payment in the highest average salary year.
- A one-time or ad hoc payment to a member that is not made to all similarly situated employees.
- Any payment made during employment but solely due to termination of member's employment except for an amount that does not exceed what was earned and payable during the highest average salary period.

Returning to work after retirement

After December 31, 2012, a retiree will have to wait at least 180 days from date of retirement before returning to work on a temporary basis, except under the following conditions:

- The employer certifies it is necessary to fill a critically needed position, and the hiring has been approved by the Board of Supervisors in an open meeting.
- If the retiree is a public safety officer or a firefighter.

Any retiree who has returned to work in an Extra Help capacity prior to January 1, 2013 will not be subject to the 180-day waiting period.

Other break in service rules still apply, in accordance with IRS regulations, for members who retire prior to "normal retirement age" (58 for General members and 50 for Safety members).

RESOLUTION # 112
DATE November 26, 2012

RESOLUTION OF THE BOARD OF RETIREMENT OF THE SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION REGARDING IMPLEMENTATION AND ADMINISTRATION OF AB 340 AND AB 197 (PENSION REFORM).

WHEREAS, the Board of Retirement of the Sonoma County Employees' Retirement Association ("SCERA") is responsible for administering the public retirement plan established by the County of Sonoma pursuant to the County Employees Retirement Law of 1937 ("CERL"), and

WHEREAS, the California Legislature has enacted AB 340 and AB 197 which, effective January 1, 2013, will require modifications in the plan administered by SCERA and establish new requirements under the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), and

WHEREAS, at its public meeting on October 18, 2012, the Board considered a detailed presentation regarding AB 340 and AB 197 and directed the Retirement Administrator ("Administrator"), staff, and legal counsel to continue development of an implementation plan including identification of necessary policy determinations and directions to be addressed by the Board, and

WHEREAS, the Board members have received and reviewed a comprehensive report from the Administrator regarding implementation of AB 340 and AB 197 by SCERA, and

WHEREAS, based on its review of the facts and circumstances, the Board makes the following specific recitals and findings:

1. Following extensive review, including consultation with participating SCERA employers, the existing forms or items of employee compensation have been identified for the purpose of determining whether they should be included in compensation earnable and/or pensionable compensation (sometimes jointly referred to hereafter as "retirement compensation"). In particular, the impact of AB 340 and AB 197 on the previous retirement compensation determinations contained in Board of Retirement Resolution # 24 and the Court approved Settlement Agreement and Judgment entered June 3, 2003, were reviewed. The recommended determinations relating to the existing forms of employee compensation are set forth in Attachment "A" to this Resolution.

2. It is possible that new forms of employee compensation may be established in the future. In addition, it is possible that issues may arise regarding specific determinations made regarding existing forms of employee compensation. It is appropriate to empower the Administrator, in the first instance, to determine whether a form of employee compensation should be included in retirement compensation. The Board must retain ultimate authority on matters of administration and, accordingly, retirement compensation determinations made by the Administrator should be subject to Board review in a reasonable manner based on the circumstances.

3. Current SCERA members are entitled under the CERL to elect any one year period of compensation for purposes of calculating their retirement benefits (the “FAS period”). AB 197 will be effective January 1, 2013. For the time prior to that date, SCERA administered compensation earnable and benefit calculations in a manner it believed to be consistent with the provisions of the CERL then in effect, and in particular Government Code section 31461, as well as interpretive case law. In addition, SCERA and the County of Sonoma are subject to a Settlement Agreement and Judgment entered on June 30, 2003 in Judicial Council Coordination Proceeding No. 4049. That Judgment confirmed and required application of the compensation earnable determinations previously set forth in Board of Retirement Resolution #24. SCERA has to date collected appropriate employee and employer contributions based on its understanding of compensation earnable and the Judgment, and that understanding has been taken into account in setting assumptions for actuarial evaluations.

Under the circumstances, it is possible that a SCERA member retiring on or after January 1, 2013 may select a FAS period that includes compensation that was earned and paid on or before December 31, 2012. It is reasonable that SCERA consider such compensation in accordance with the CERL provisions and the Judgment that were in effect at the time the services were rendered and the compensation was paid. AB 197 does not expressly address this issue, and there is no reasonable basis to conclude that the Legislature intended that any legislative changes in the compensation earnable provisions of the CERL must be applied to compensation paid prior to January 1, 2013.

4. AB 340 contains a provision addressing disability retirement benefits, Government Code section 7522.66. That provision is ambiguous regarding its application to public retirement systems created and operating under the CERL. The provision specifies that it is intended to cover “[a] safety member . . . who retires for **industrial disability**”. (Emphasis supplied.) The Senate Committee Conference Report No. 1 (AB 340), dated 8/28/12, reflects that its purpose was to cover “safety members who qualify for **Industrial Disability Retirement (IDR)**.” (Emphasis supplied.) CERL does provide for and SCERA has established a safety member classification. However, the CERL does not provide for an Industrial Disability Retirement (IDR) benefit. Instead, the CERL authorizes a safety member to qualify to retire for service connected disability as defined by the governing statute, Government Code sections 31720(a) and 31727.4. Based on the statutory language and available information regarding legislative objectives, it is reasonable to conclude that this provision of AB 340 was not intended to apply to CERL systems.

5. To permit timely implementation, the Board is acting at this time regarding certain priority issues. For the benefit of SCERA members and other interested parties, it is appropriate to establish an initial written policy regarding the implementation of AB 340 and AB 197, compensation earnable, and pensionable compensation. That initial policy is set forth in Attachment “B” to this Resolution.

There are other issues, however, that ultimately must be addressed to achieve full implementation of AB 340 and AB 197. Therefore, it is important to continue to develop necessary policies and procedures to achieve that objective. The additional issues that should be addressed include, but are not limited to, the following:

A. SCERA is required to develop procedures to more closely monitor and review employer reporting of compensation for retirement benefit purposes. Other audits or reviews to determine correctness of retirement benefits, reportable compensation, and the proper enrollment of employees in SCERA may be appropriate.

B. The legislation requires changes in the sharing of the costs of providing benefits between employees and employers. The effects of those changes on SCERA's actuarial review and rate setting processes must be understood and administered.

C. SCERA must be prepared to administer specific aspects of PEPRA such as identification of "new members" and application of pensionable compensation limits when the legislation comes into effect on January 1, 2013.

6. Although the Board of Retirement is responsible for determining what forms or types of employee compensation should be included in compensation earnable, those determinations must be consistent with the controlling statutory provisions of the retirement plan. As a result of its review and the recommendations of SCERA staff, the determinations made by the Board to date reflect its best understanding of the requirements of AB 340 and AB 197. Any such determinations must ultimately be subject to authoritative interpretation and/or clarification of the controlling law. Accordingly, in taking action to timely implement the new legislation the SCERA Board does not have authority to, and does not intend to create any entitlement to continued inclusion of any particular pay item in compensation earnable that is not otherwise permitted to be included pursuant to the statutory retirement plan.

NOW, THEREFORE, BE IT RESOLVED, that the SCERA Board of Retirement adopts and approves Attachment "A" to this Resolution as the determination of the Board regarding inclusion in or exclusion from compensation earnable or pensionable compensation, as appropriate, for the specified pay elements or categories. Any pay element or category in existence as of the date of this Resolution that is not shown in Attachment "A" shall be evaluated as a new pay element in accordance with the procedures established by the Board.

BE IT FURTHER RESOLVED that authority is delegated to the Retirement Administrator, in the first instance, to determine whether a pay element or category should be included in compensation earnable or pensionable compensation, as appropriate. The Administrator's determination is subject to review by the Board.

BE IT FURTHER RESOLVED that in circumstances in which the FAS period selected by a retiring SCERA member includes time prior to January 1, 2013, the legal provisions and administrative policies regarding compensation earnable then in effect shall be applied to any compensation paid to the member on or before December 31, 2012 for purposes of determining final compensation earnable and calculating retirement benefits.

BE IT FURTHER RESOLVED that the Board approves and adopts the implementation policy set forth as Attachment “B” to this Resolution.

BE IT FURTHER RESOLVED that SCERA will not implement the provisions of AB 340 relating to disability retirement based on the conclusion that the Legislature did not intend for those provisions to apply to CERL systems. In the event that it becomes clear that the Legislature did intend for those provisions to apply, SCERA will take the steps necessary to implement those provisions as soon as practicable.

BE IT FURTHER RESOLVED that the Retirement Administrator and staff are directed to continue to develop the administrative policies and procedures required to achieve full compliance with AB 340 and AB 197. The Board delegates authority to the Administrator to implement such policies and procedures and such implementation shall be timely reported to the Board.

RETIREMENT BOARD TRUSTEES:

Alys	<u> X </u>	Beels	<u> X </u>	Edwards	<u> See Ford Vote </u>	Ford	<u> X </u>	Jahn	<u> X </u>
Pegg	<u> X </u>	Rabbitt	<u> X </u>	Sundstrom	<u> A </u>	Williams	<u> X </u>	Allen	<u> X </u>
Ayes	<u> 8 </u>	Noes	<u> 0 </u>	Abstain	<u> 0 </u>	Absent	<u> 1 </u>		

SO ORDERED

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Ventura Settlement Agreement & SCERA Board Resolutions 24 & 56			AB 197 Changes	AB 340 Changes
	Currently in Calculation	Eligible Earnings	Ineligible Earnings	Current Members (effective 1/1/13)	New Members (effective 1/1/13)
Income Description					
Regular Earnings	X				
Sick Leave Taken	X				
Vacation Leave Taken	X				
Compensatory Time Taken	X				
Holiday as Pay Status	X				
Confidential Premium	X				
Auto Allowance	X			If Converted - Not Included	Not Included
County Paid Deferred Compensation	X			Not Included	Not Included
Resident Deputy Premium	X				
Detective Premium	X				
Youth Supervisor Case Worker Premium	X				
Supervising Courtroom Clerk Premium	X				
Awards (performance related)		X		Presumption Not Included	Not Included
POST Premiums Premium pay given to law enforcement officers for additional hours of training. (POST – Police Officer Standards Training).		X			
Shift Differentials Additional pay given for working afternoon or evening shift.		X			
Bilingual Pay Additional pay given for being able to speak another language, usually Spanish.		X			
Detention Facilities Assignment Premium Additional pay given for workers in jail and juvenile halls.		X			
RN License Premium		X			
Stand-By Premium Premium pay for being on call.		X		Not Included	Not Included
Vacation Buy Back Per MOU - varies up to 80 hrs. per year - can sell back to the County and receive cash (in lieu of time off.)		X		Limited by Earned & Payable Test	Not Included
Administrative Leave Buy Back Elected officials - 56 hrs.		X		Limited by Earned & Payable Test	Not Included
Holiday Paid (excess of 80 hour pay status) Holiday falls on regular day off (ie: work Weds - Sat., holiday on Monday - get paid 8 hrs. paid for holiday.)		X		Not Included	Not Included

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Ventura Settlement Agreement & SCERA Board Resolutions 24 and 56			AB 197 Changes	AB 340 Changes
	Currently in Calculation	Eligible Earnings	Ineligible Earnings	Current Members (effective 1/1/13)	New Members (effective 1/1/13)
Income Description					
Floating Holiday Once a year (benefit in contract) everyone gets 8 hours of comp time.		X		Limited by Earned & Payable Test	Not Included
Three (3) Hour Holiday Comp Time Accrual		X		Limited by Earned & Payable Test	Not Included
Sick Leave Conversion Up to 24 hours a year.		X		Limited by Earned & Payable Test	Not Included
Hazard Pay		X			
Animal Removal Assignment Premium		X			
Heavy Truck Operator Premium		X			
Fairground Special Equipment Premium		X			
Charges Duties (Health Facilities) Premium pay for being in charge of particular area/staff (ex: charge nurse of PM shift)		X			
Sexual Assault Premium (first \$100) Premium pay for staff who do sexual assault exams.		X			
Psych. Nurse/FNP/PA Special Facilities		X			
Detention Facility Premium - FTO Training new recruits for detention facility staff (correctional officers).		X			
Cook and Chef at NCDF/MADF Premium 10% premium pay for working around inmates (potentially dangerous).		X			
Work Crew Premiums Supervising work crews - 5% or 7.5% increase for supervising inmates.		X			
Maintenance Worker Water Agency Perm. Hours assisting mechanic - 10% with minimum of 4 hours.		X			
Rest Break Premium (Disposal Stations) \$4.21 each day that break is not taken.		X			
Simulcast Attendant Premium		X			
Senior Legal Processor Premium		X			
Uniforms and Allowances Given cash, no reimbursement - \$70 to \$120 per year.		X			Not Included
Cleaning Money (uniforms)		X			Not Included
Bomb Disposal Hazard & special training pay for working on the bomb squad.		X			
SWAT Hazard & special training pay for law enforcement officers working on the unit that handles extremely dangerous situations (ex: hostage negotiation).		X			
SERT Premium for extracting inmates from cell in jail or detention facility (hazard pay/ possible violence).		X			
I.A. Investigators Internal Affairs Investigators investigate possible wrongdoing by law enforcement/personnel.		X			
Classification Officer They classify where inmate will be placed (violent, suicidal, etc.)		X			

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Ventura Settlement Agreement & SCERA Board Resolutions 24 & 56			AB 197 Changes	AB 340 Changes
	Income Description	Currently in Calculation	Eligible Earnings	Ineligible Earnings	Current Members (effective 1/1/13)
Field Training Officer For law enforcement patrol training recruits in the field.		X			
Facilities Training Officer For correctional officers training recruits on the job.		X			
Dog Handler Supervisor Canine Unit - supervises officers that use dogs.		X			
Grievance/Discipline Officer Special training required to deal with inmate grievances/disciplinary problems - correctional officers.		X			
Training Coordinator Person in charge of field and facilities training officers.		X			
Helicopter Observer Officers who fly in the helicopter.		X			
Alternate Helicopter Observer On-call to cover regular observer for vacation, sick leave, etc.		X		Not Included	Not Included
Inmate Program Services Officer 5% premium for planning inmate activities.		X			
Water Agency Plant Operator		X			
Housing Allowance		X			Not Included
Benefit Allowance All Units			X	Not Included	Not Included
Tuition & Textbook Allowance			X	Not Included	Not Included
Call Back			X	Not Included	Not Included
Phone Work			X	Not Included	Not Included
Mileage Reimbursement			X	Not Included	Not Included
Overtime			X	Not Included	Not Included
Half Time Pay			X	Not Included	Not Included
Double Time			X	Not Included	Not Included
Vacation Payoff at Termination			X	Not Included	Not Included
Sick Leave Payoff at Termination			X	Not Included	Not Included
Compensatory Time Pay at Termination			X	Not Included	Not Included
Safety Boot Vouchers			X	Not Included	Not Included

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Add'l Pay Code Categories in Current Review			AB 197 Changes	AB 340 Changes
		Eligible Earnings		Current Members (effective 1/1/13)	New Members (effective 1/1/13)
Income Description					
Comp Holiday Over Cap		X		Limited by Earned & Payable Test	Not Included
Comp Holiday Cashout		X		Limited by Earned & Payable Test	Not Included
Other Categories of Leaves Taken Admin., Catastrophic, Compassionate, Court, Educ., Jury Duty, Military, Supv., 4850		X			
Mandatory Time Off Taken		X			
Voluntary Time Off Taken		X			
Union Release Time Taken		X			
Other Skill Based Premiums		X			
Other Shift Differentials		X			
Other Stand-By Premiums		X		Not Included	Not Included
Other Allowances DSA Equipment, Cell Phone		X			Not Included
Flat Amount Board of Supervisors serving on Commissions (ex. GG Bridge District, ABAG)		X			
Cash Allowance County only (\$3.45/hour additional salary)		X			
Dept. Head 5% Salary Increase for Advanced Notice of Retirement Resignation date set to allow succession planning, BOS Approval, 5% salary increase		X		Presumption Not Included	Not Included
Porac LTD Cash Paid to employee for LTD Premiums through PORAC		X		Not Included	Not Included
VOM - Holiday Pay Cash Paid for holidays whether scheduled or off duty, paid -biannually		X			
VOM - Longevity Pay Percent salary increase for 5, 10 and 15 years of consecutive service, paid bi-annually		X			
VOM - Health Plan Allowance Cash Paid for declining health care coverage		X		If Converted - Not Included	Not Included
VOM - Paramedic Continuing Ed Cash Paid to defray cost of Paramedic Continuing Ed		X		Not Included	Not Included
Facts and Circumstance Dependent:					
Recruitment - Retention Incentive Incentive offered at time of hire payable after one year				Presumption Included	Not Included
Flat Payment Ad Hoc Payment to all employees in a bargaining unit				Presumption Not Included	Not Included
Bonus Review Facts and Circumstances				Presumption Not Included	Not Included

SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

POLICY REGARDING IMPLEMENTATION OF AB340 AND AB197 COMPENSATION EARNABLE AND FINAL COMPENSATION

I. BACKGROUND

AB340 and AB197 were passed by the legislature and signed by the Governor on September 12, 2012. The legislation is effective on January 1, 2013 and policies are necessary to support administrative implementation of the pension reform legislation for SCERA members. A foundational legal analysis was the first step to determine the impact of the new legislative provisions on SCERA member benefits. SCERA legal counsel provided the legal policy review at the October 18, 2012 Retirement Board meeting. Subsequently, pay code categories were reviewed with employers, to assist in developing staff and counsel proposed changes to compensation earnable for current members and proposed pensionable compensation for new members resulting from the pension reform legislation.

AB340 established a standard of pensionable compensation for new members hired on or after January 1, 2013 and AB197 clarified the standard for compensation earnable for current members. Pensionable compensation (AB340) and compensation earnable (AB197) will be referred to as compensation earnable for ease of reference in this policy.

The resulting proposed compensation earnable policy by pay code category and Resolution #112 were reviewed and approved by the Retirement Board on November 26, 2012. Resolution #112 sets the policy structure for compensation earnable treatment of pay code categories in support of the initial implementation of AB340 and AB197 on January 1, 2013.

In addition, a final compensation earnable policy review was necessary for current members given the effective date of the legislation and its impact on compensation earnable after January 1, 2013 along with the compensation earnable history for SCERA members in light of the Sonoma County Court approved settlement agreement and judgment to the *Ventura* Supreme Court Decision. The final compensation earnable policy following implementation of AB197 for current members was also reviewed and approved by the Retirement Board.

This policy outlines the requirements for ongoing staff administrative policy responsibilities regarding initial implementation of compensation earnable and final compensation provisions of AB340 and AB197.

II. **POLICY**

SCERA staff will implement final compensation earnable consistent with AB340 and AB197 and the policy approved by the Retirement Board in Resolution #112. Any limitations or exclusions of compensation earnable items after the effective date of the legislation (January 1, 2013) are applied prospectively. The retirement compensation history for the period prior to January 1, 2013 was reviewed and established as consistent with the legal provisions in effect and appropriate contributions have been collected from employees and employers.

The Retirement Administrator, with assistance of legal counsel, is responsible for ongoing policy decisions related to compensation earnable following Board approval of Resolution #112. The Retirement Administrator will keep the Retirement Board informed regarding significant ongoing compensation earnable policy matters, as appropriate.

Employers are responsible for coding of pay code categories consistent with SCERA policy determinations and subject to SCERA staff review. A short list of pay code categories are noted as “presumption included” or “presumption not included” and should be coded by employers consistent with the presumption in the pay code category review. Employers are responsible to notify SCERA staff regarding the facts and circumstances of any pay items they consider may be an exception to the presumption for review by SCERA Retirement Administrator. In addition, SCERA staff will code SCERA systems in a way that flags presumption pay codes for ongoing policy review with each payroll transmittal from employers.

Employers are responsible for notifying SCERA staff of new pay codes for compensation earnable review by SCERA staff at the time of implementation of the codes. SCERA staff will review employer pay code listings on a quarterly basis for compliance with established policy as part of staff administrative procedures.

SCERA staff will continue the longstanding current practice which includes a detailed pay item review of final compensation earnable prior to establishing retirement benefits for retiring SCERA members. Consistent with current practice, matters requiring policy review will be flagged by staff for Retirement Administrator review and determination regarding compensation earnable for the calculation of benefits. SCERA members or employers may appeal a policy decision by the Retirement Administrator to the Retirement Board. In most circumstances, this review will occur as an agenda item at the next available Retirement Board meeting.

When reviewing items of compensation, SCERA staff will audit pay items to identify those that may have a primary purpose to enhance retirement benefits (e.g. conversion of pay items from in-kind to cash payment in the FAS period), involve the manipulation of compensation by SCERA members or employers to enhance benefits, receipt of ad hoc payments or any other compensation considered to be inconsistent with the pension reform legislation provisions.

III. **HISTORY**

Approved by the Board of Retirement on November 26, 2012.



S C E R A

AB340 and AB197 Implementation

Special Retirement Board Meeting

November 26, 2012

**(As adjusted for Retirement Board input at the
November 26, 2012 meeting)**

AB340 and AB197 Implementation

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4. Final Compensation Earnable Policy
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7. SCERA Legal Counsel Presentation on California Public Employees’ Pension Reform Legislation – SCERA Implementation (October 18, 2012 Retirement Board meeting)
8. SCERA Response to Segal Issues Regarding Implementation of Provisions in CalPEPRA (approved at the October 18, 2012 Retirement Board meeting)

SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION



Gary Bei
Retirement Administrator

Kelly Jenkins
Asst. Retirement Administrator

James Failor
Sr. Retirement Investment Officer

Cathy Lanz
Retirement Accounting Manager

Helen Olson
Retirement Benefits Coordinator

Diane Ginn
Dept. Information Systems Manager

November 20, 2012

To: SCERA Board Members

Re: Recommendations related to the implementation of AB340 and AB197.

Board Members,

The January 1, 2013 effective date of AB340 and AB197 pension reform legislation requires Retirement Board action on the priority elements included in this packet to allow the required system and administrative implementation to be completed as well as providing SCERA members information to assist in their retirement decisions. A proposed Retirement Board implementation Resolution is provided for Board action.

Based on analysis of the enclosed information developed by SCERA staff and legal counsel regarding implementation of AB 340 and AB197, staff makes the following recommendation:

Adopt the attached proposed Resolution #112 in support of the Retirement Board's findings in the following areas:

- 1) Compensation earnable and pensionable compensation determinations as noted in the attached pay code category review.
- 2) Retirement Administrator authority, with the assistance of counsel, to be responsible for the ongoing compensation earnable policy determinations, in the first instance, subject to Board review on appeal.
- 3) Final compensation earnable policy for periods of compensation earnable prior to January 1, 2013, the effective date of the legislation.
- 4) Industrial Disability Retirement provisions not applying to County Employees Retirement Law (CERL) systems.
- 5) Administrative Policy related to implementation of AB340 and AB197.
- 6) Direction to the Retirement Administrator to take necessary steps to complete such additional policies as necessary to support full implementation of AB340 and AB197 on January 1, 2013, reporting to the Retirement Board, as appropriate.

This packet of information includes key priority elements of the proposed implementation plan for pension reform legislation included in AB340 and AB197 passed by the legislature and signed by the Governor on September 12, 2012. The recommendations were developed following extensive work by SCERA staff and legal counsel in assessing the legal framework to the legislative changes and coordinated work with other California public retirement systems through both SACRS and CALAPRS organizations. In addition, implementation meetings were held with employer representatives in connection with the development of the proposed policies presented to the Retirement Board including discussion of the pay code categories and policy topics.

Included in the implementation packet of information are 1) staff and legal counsel proposed changes to compensation earnable treatment of pay code categories impacted by AB340 and AB197 and the effective date of those changes; 2) a policy statement regarding the Final Compensation Earnable for current members that have compensation earnable history both before and after the effective date of the legislation; and 3) summary briefing documents on certain pay code category items as part of the Retirement Board's policy review. Given the nature of the legislative changes, the foundation for the above policy topics was the legal analysis presented to the Retirement Board at the October 18th meeting which is provided in this packet as a reference document. In addition, actuarial inputs provided to Segal for upcoming actuarial studies which were approved at the October 18th meeting, are also provided for reference.

An Administrative Policy related to the implementation of pension reform legislation is included to outline the governance framework for ongoing implementation work. It is recommended that the Retirement Administrator be given on-going authority to resolve issues of compensation earnable determinations, subject to appeal to the Retirement Board in matters of dispute. This is a similar delegation framework to that included in the Ventura Supreme Court Decision implementation plan.

A review of the information provided will be presented at the Board Special Meeting on November 26, 2012 prior to Board action.

Best regards,

A handwritten signature in black ink, appearing to be 'Gary Bei', written in a cursive style.

Gary Bei
Retirement Administrator
Sonoma County Employees' Retirement Association



**Ventura Retirement Board Resolutions 24 and 56
&
Ventura Settlement Agreement Exhibit A**

Changes from AB340 and AB197

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Ventura Settlement Agreement & SCERA Board Resolutions 24 & 56			AB 197 Changes	AB 340 Changes
	Income Description	Currently in Calculation	Eligible Earnings	Ineligible Earnings	Current Members (effective 1/1/13)
Regular Earnings	X				
Sick Leave Taken	X				
Vacation Leave Taken	X				
Compensatory Time Taken	X				
Holiday as Pay Status	X				
Confidential Premium	X				
Auto Allowance	X			If Converted - Not Included	Not Included
County Paid Deferred Compensation	X			Not Included	Not Included
Resident Deputy Premium	X				
Detective Premium	X				
Youth Supervisor Case Worker Premium	X				
Supervising Courtroom Clerk Premium	X				
Awards (performance related)		X		Presumption Not Included	Not Included
POST Premiums Premium pay given to law enforcement officers for additional hours of training. (POST – Police Officer Standards Training).			X		
Shift Differentials Additional pay given for working afternoon or evening shift.			X		
Bilingual Pay Additional pay given for being able to speak another language, usually Spanish.			X		
Detention Facilities Assignment Premium Additional pay given for workers in jail and juvenile halls.			X		
RN License Premium			X		
Stand-By Premium Premium pay for being on call.			X	Not Included	Not Included
Vacation Buy Back Per MOU - varies up to 80 hrs. per year - can sell back to the County and receive cash (in lieu of time off.)			X	Limited by Earned & Payable Test	Not Included
Administrative Leave Buy Back Elected officials - 56 hrs.			X	Limited by Earned & Payable Test	Not Included
Holiday Paid (excess of 80 hour pay status) Holiday falls on regular day off (ie: work Weds - Sat., holiday on Monday - get paid 8 hrs. paid for holiday.)			X	Not Included	Not Included

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Ventura Settlement Agreement & SCERA Board Resolutions 24 and 56			AB 197 Changes	AB 340 Changes
	Currently in Calculation	Eligible Earnings	Ineligible Earnings	Current Members (effective 1/1/13)	New Members (effective 1/1/13)
Income Description					
Floating Holiday Once a year (benefit in contract) everyone gets 8 hours of comp time.		X		Limited by Earned & Payable Test	Not Included
Three (3) Hour Holiday Comp Time Accrual		X		Limited by Earned & Payable Test	Not Included
Sick Leave Conversion Up to 24 hours a year.		X		Limited by Earned & Payable Test	Not Included
Hazard Pay		X			
Animal Removal Assignment Premium		X			
Heavy Truck Operator Premium		X			
Fairground Special Equipment Premium		X			
Charges Duties (Health Facilities) Premium pay for being in charge of particular area/staff (ex: charge nurse of PM shift)		X			
Sexual Assault Premium (first \$100) Premium pay for staff who do sexual assault exams.		X			
Psych. Nurse/FNP/PA Special Facilities		X			
Detention Facility Premium - FTO Training new recruits for detention facility staff (correctional officers).		X			
Cook and Chef at NCDF/MADF Premium 10% premium pay for working around inmates (potentially dangerous).		X			
Work Crew Premiums Supervising work crews - 5% or 7.5% increase for supervising inmates.		X			
Maintenance Worker Water Agency Perm. Hours assisting mechanic - 10% with minimum of 4 hours.		X			
Rest Break Premium (Disposal Stations) \$4.21 each day that break is not taken.		X			
Simulcast Attendant Premium		X			
Senior Legal Processor Premium		X			
Uniforms and Allowances Given cash, no reimbursement - \$70 to \$120 per year.		X			Not Included
Cleaning Money (uniforms)		X			Not Included
Bomb Disposal Hazard & special training pay for working on the bomb squad.		X			
SWAT Hazard & special training pay for law enforcement officers working on the unit that handles extremely dangerous situations (ex: hostage negotiation).		X			
SERT Premium for extracting inmates from cell in jail or detention facility (hazard pay/ possible violence).		X			
I.A. Investigators Internal Affairs Investigators investigate possible wrongdoing by law enforcement/personnel.		X			
Classification Officer They classify where inmate will be placed (violent, suicidal, etc.)		X			

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Ventura Settlement Agreement & SCERA Board Resolutions 24 & 56			AB 197 Changes	AB 340 Changes
	Currently in Calculation	Eligible Earnings	Ineligible Earnings	Current Members (effective 1/1/13)	New Members (effective 1/1/13)
Income Description					
Field Training Officer For law enforcement patrol training recruits in the field.		X			
Facilities Training Officer For correctional officers training recruits on the job.		X			
Dog Handler Supervisor Canine Unit - supervises officers that use dogs.		X			
Grievance/Discipline Officer Special training required to deal with inmate grievances/disciplinary problems - correctional officers.		X			
Training Coordinator Person in charge of field and facilities training officers.		X			
Helicopter Observer Officers who fly in the helicopter.		X			
Alternate Helicopter Observer On-call to cover regular observer for vacation, sick leave, etc.		X		Not Included	Not Included
Inmate Program Services Officer 5% premium for planning inmate activities.		X			
Water Agency Plant Operator		X			
Housing Allowance		X			Not Included
Benefit Allowance All Units			X	Not Included	Not Included
Tuition & Textbook Allowance			X	Not Included	Not Included
Call Back			X	Not Included	Not Included
Phone Work			X	Not Included	Not Included
Mileage Reimbursement			X	Not Included	Not Included
Overtime			X	Not Included	Not Included
Half Time Pay			X	Not Included	Not Included
Double Time			X	Not Included	Not Included
Vacation Payoff at Termination			X	Not Included	Not Included
Sick Leave Payoff at Termination			X	Not Included	Not Included
Compensatory Time Pay at Termination			X	Not Included	Not Included
Safety Boot Vouchers			X	Not Included	Not Included

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Additional Pay Code Categories

Changes from AB340 and AB197

ATTACHMENT A TO RESOLUTION #112- 11/26/12	Add'l Pay Code Categories in Current Review			AB 197 Changes	AB 340 Changes
		Eligible Earnings		Current Members (effective 1/1/13)	New Members (effective 1/1/13)
Income Description					
Comp Holiday Over Cap		X		Limited by Earned & Payable Test	Not Included
Comp Holiday Cashout		X		Limited by Earned & Payable Test	Not Included
Other Categories of Leaves Taken Admin., Catastrophic, Compassionate, Court, Educ., Jury Duty, Military, Supv., 4850		X			
Mandatory Time Off Taken		X			
Voluntary Time Off Taken		X			
Union Release Time Taken		X			
Other Skill Based Premiums		X			
Other Shift Differentials		X			
Other Stand-By Premiums		X		Not Included	Not Included
Other Allowances DSA Equipment, Cell Phone		X			Not Included
Flat Amount Board of Supervisors serving on Commissions (ex. GG Bridge District, ABAG)		X			
Cash Allowance County only (\$3.45/hour additional salary)		X			
Dept. Head 5% Salary Increase for Advanced Notice of Retirement Resignation date set to allow succession planning, BOS Approval, 5% salary increase		X		Presumption Not Included	Not Included
Porac LTD Cash Paid to employee for LTD Premiums through PORAC		X		Not Included	Not Included
VOM - Holiday Pay Cash Paid for holidays whether scheduled or off duty, paid -biannually		X			
VOM - Longevity Pay Percent salary increase for 5, 10 and 15 years of consecutive service, paid bi-annually		X			
VOM - Health Plan Allowance Cash Paid for declining health care coverage		X		If Converted - Not Included	Not Included
VOM - Paramedic Continuing Ed Cash Paid to defray cost of Paramedic Continuing Ed		X		Not Included	Not Included
Facts and Circumstance Dependent:					
Recruitment - Retention Incentive Incentive offered at time of hire payable after one year				Presumption Included	Not Included
Flat Payment Ad Hoc Payment to all employees in a bargaining unit				Presumption Not Included	Not Included
Bonus Review Facts and Circumstances				Presumption Not Included	Not Included



Final Compensation Earnable
Current Members

AB340 and AB197 Implementation

Final Compensation Earnable Current Members

The legal framework to the Final Compensation Earnable Policy for current members related to AB340 and AB197 implementation was covered as part of the SCERA Legal Counsel presentation at the October 18, 2012 Retirement Board meeting. The relevant slides to the Final Compensation Earnable topic were slides 6 through 9 of the October 18th presentation and the presentation is included in this implementation packet. Major elements relevant to the legal framework for Final Compensation Earnable are the County Employees Retirement Law (CERL), Ventura Supreme Court Decision, Ventura Settlement Agreement for SCERA members and relevant case law including *Guelfi*, *Salus* and *In Re Retirement* cases.

Based on this foundational legal analysis, any limitations or exclusions of compensation earnable items after the effective date of the legislation (January 1, 2013) are applied prospectively. The retirement compensation history for the period prior to January 1, 2013 was reviewed and established as consistent with the legal provisions in effect and appropriate contributions have been collected from employees and employers. In addition, the compensation earnable policies during the period prior to January 1, 2013 have been utilized in the setting of actuarial assumptions for contribution rates for both employees and employers; the basis for contributions collected. The provisions of the Consent Decree of the Ventura Settlement Agreement preserve the includability of pay code items consistent with Exhibit A of the Consent Decree until the clarifying legislative language of the recently passed pension reform legislation becomes effective on January 1, 2013.

Based on the retirement compensation history, which is premised on the applicable law and judicial decisions, SCERA members may select a final compensation period that includes compensation earnable recognized in periods prior to January 1, 2013 to calculate their Final Compensation Earnable and determine their retirement benefit.



SCERA CURRENT MEMBERS

Final Compensation Earnable

- AB 197 passed after AB 340 and amended section 31461 of the CERL which defines “compensation earnable”
- Primary intent of the Legislature was to clarify and make explicit the interpretation of section 31461 in light of case law beginning with *Ventura*. Additional statutory language also expressly identifies certain pay items that Legislature intends are *not* included.
- Practical result is minimal change in administration of SCERA plan in relation to determination of “compensation earnable” for current employees



SCERA CURRENT MEMBERS

Final Compensation Earnable

- AB 197 affirms Retirement Association’s existing authority to determine what is properly included in compensation earnable
- Essential standard is that compensation paid for the purpose of enhancing retirement benefits may be excluded from “compensation earnable” for purposes of retirement calculation
- General statutory definition of “compensation earnable” unchanged: “The average compensation as determined by the [retirement] board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay.” [Section 31461(a)]





SCERA CURRENT MEMBERS

Final Compensation Earnable

- Express legislative declaration that the provisions of AB 197 are intended to be consistent with relevant interpretative case law following *Ventura*, and they are intended to provide clarification regarding the administration of CERL section 31461.
- SCERA and County of Sonoma are covered by a Consent Decree entered in litigation based on the *Ventura* decision. For the period prior to January 1, 2013, SCERA's administration of the CERL (including determinations regarding compensation earnable) is subject to the Decree. Legislative clarification will require minimal adjustment in administration of benefits for current members beginning January 1, 2013. (e.g., treatment of employer paid contributions to deferred compensation accounts will change; under Decree was deemed included but under legislative clarification is not includable compensation)



SCERA CURRENT MEMBERS

Final Compensation Earnable

- Essential focus of CERL definition on compensation provided in relation to the normal or ordinary work period (e.g., regularly scheduled hours, not overtime) that is paid to similarly situated employees in a logical group or class of employment
- Definition contemplates the inclusion of the base or regular pay and certain types of additional compensation paid to similarly situated employees that relate to the nature or the circumstances of performance of services (e.g., premiums such as shift-differential pay) and/or special skills, education, or training related to the services performed (e.g., bilingual pay, educational incentive)
- Definition also contemplates continued inclusion of cash allowances consistently paid to similarly situated employees for work related purpose (e.g. uniform allowance)



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Administrative Policy

**Compensation Earnable and
Final Compensation**

SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

POLICY REGARDING IMPLEMENTATION OF AB340 AND AB197 COMPENSATION EARNABLE AND FINAL COMPENSATION

I. BACKGROUND

AB340 and AB197 were passed by the legislature and signed by the Governor on September 12, 2012. The legislation is effective on January 1, 2013 and policies are necessary to support administrative implementation of the pension reform legislation for SCERA members. A foundational legal analysis was the first step to determine the impact of the new legislative provisions on SCERA member benefits. SCERA legal counsel provided the legal policy review at the October 18, 2012 Retirement Board meeting. Subsequently, pay code categories were reviewed with employers, to assist in developing staff and counsel proposed changes to compensation earnable for current members and proposed pensionable compensation for new members resulting from the pension reform legislation.

AB340 established a standard of pensionable compensation for new members hired on or after January 1, 2013 and AB197 clarified the standard for compensation earnable for current members. Pensionable compensation (AB340) and compensation earnable (AB197) will be referred to as compensation earnable for ease of reference in this policy.

The resulting proposed compensation earnable policy by pay code category and Resolution #112 were reviewed and approved by the Retirement Board on November 26, 2012. Resolution #112 sets the policy structure for compensation earnable treatment of pay code categories in support of the initial implementation of AB340 and AB197 on January 1, 2013.

In addition, a final compensation earnable policy review was necessary for current members given the effective date of the legislation and its impact on compensation earnable after January 1, 2013 along with the compensation earnable history for SCERA members in light of the Sonoma County Court approved settlement agreement and judgment to the *Ventura* Supreme Court Decision. The final compensation earnable policy following implementation of AB197 for current members was also reviewed and approved by the Retirement Board.

This policy outlines the requirements for ongoing staff administrative policy responsibilities regarding initial implementation of compensation earnable and final compensation provisions of AB340 and AB197.

II. **POLICY**

SCERA staff will implement final compensation earnable consistent with AB340 and AB197 and the policy approved by the Retirement Board in Resolution #112. Any limitations or exclusions of compensation earnable items after the effective date of the legislation (January 1, 2013) are applied prospectively. The retirement compensation history for the period prior to January 1, 2013 was reviewed and established as consistent with the legal provisions in effect and appropriate contributions have been collected from employees and employers.

The Retirement Administrator, with assistance of legal counsel, is responsible for ongoing policy decisions related to compensation earnable following Board approval of Resolution #112. The Retirement Administrator will keep the Retirement Board informed regarding significant ongoing compensation earnable policy matters, as appropriate.

Employers are responsible for coding of pay code categories consistent with SCERA policy determinations and subject to SCERA staff review. A short list of pay code categories are noted as “presumption included” or “presumption not included” and should be coded by employers consistent with the presumption in the pay code category review. Employers are responsible to notify SCERA staff regarding the facts and circumstances of any pay items they consider may be an exception to the presumption for review by SCERA Retirement Administrator. In addition, SCERA staff will code SCERA systems in a way that flags presumption pay codes for ongoing policy review with each payroll transmittal from employers.

Employers are responsible for notifying SCERA staff of new pay codes for compensation earnable review by SCERA staff at the time of implementation of the codes. SCERA staff will review employer pay code listings on a quarterly basis for compliance with established policy as part of staff administrative procedures.

SCERA staff will continue the longstanding current practice which includes a detailed pay item review of final compensation earnable prior to establishing retirement benefits for retiring SCERA members. Consistent with current practice, matters requiring policy review will be flagged by staff for Retirement Administrator review and determination regarding compensation earnable for the calculation of benefits. SCERA members or employers may appeal a policy decision by the Retirement Administrator to the Retirement Board. In most circumstances, this review will occur as an agenda item at the next available Retirement Board meeting.

When reviewing items of compensation, SCERA staff will audit pay items to identify those that may have a primary purpose to enhance retirement benefits (e.g. conversion of pay items from in-kind to cash payment in the FAS period), involve the manipulation of compensation by SCERA members or employers to enhance benefits, receipt of ad hoc payments or any other compensation considered to be inconsistent with the pension reform legislation provisions.

III. **HISTORY**

Approved by the Board of Retirement on November 26, 2012.

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Detailed Review of Policy Topics

SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

COMPENSATION EARNABLE AND PENSIONABLE COMPENSATION: A SUMMARY OF KEY COMPENSATION PROVISIONS OF AB340 AND AB197 (EFFECTIVE JANUARY 1, 2013)

Provided below is a limited summary interpretation of some key compensation provisions in the new legislation. This is not intended as an exhaustive or definitive legal document. The terms of the legislation as finally interpreted will control the administration of the plan.

Retirement Boards have always had the authority to determine whether compensation is "compensation earnable" under Section 31461, as interpreted by court cases (*Ventura, Salus, In Re Retirement*). The new pension legislation clarified that standard for current members and changed the standards for new members.

I. CURRENT MEMBERS

A. Compensation Earnable Definition Remains the Same: "the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay."

B. Mandatory Exclusions from Compensation Earnable, AB197 Section 31461(b)(2, 3, 4):

Compensation earnable must exclude:

1. Payments for unused vacation, annual leave, personal leave, sick leave or comp time except as earned and payable in the 12 month Final Average Salary (FAS) period;
2. Payments for services outside normal working hours; and
3. Payments made at termination except as earned and payable during FAS period.

C. Enhancement Exclusions from Compensation Earnable, AB197 Section 31461(b)(1):

Compensation earnable excludes compensation "determined by the board to have been paid to enhance a member's retirement benefit", which may include:

1. In-kind converted to cash,
2. One-time or ad hoc not paid to similarly situated in same grade or class, or
3. Solely due to termination except as earned and payable during FAS period.

II. NEW MEMBERS

New “**pensionable compensation**” definition, AB340 Section 7522.34:

A. Pensionable compensation is “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.”

- This means that pensionable compensation is intended to include the base rate of pay (e.g., the base hourly pay rate for the pay grade) PLUS certain forms of additional or special compensation directly related to the nature or the circumstances of performance of services (e.g., hazard pay, shift differential) and/or special skills, education, or training related to the services performed (e.g., bilingual pay, educational incentive).
- Significant change under AB 340 is to expressly identify certain types of pay items that will *not* be included in pensionable compensation

B. Pensionable compensation does not include:

1. Compensation determined by the Board to have been paid to increase a member’s retirement benefit.
2. Compensation that had been previously provided in kind or paid to a third party other than the retirement system for the benefit of the member, which was then converted to cash and received by the member.
3. One time or ad hoc payments to a member.
4. Severance or any other payment in connection with or in anticipation of separation from employment, received 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. Employer provided allowance, reimbursement, or payment including, but not limited to, for housing, vehicle or uniforms.
8. Compensation for overtime work except for certain fire protection, law enforcement or detention facility situations.
9. Employer contributions to deferred compensation or defined contribution plans.
10. Any bonus.
11. Any other form of compensation determined by the Retirement Board to be inconsistent with or should not be included in the basic definition of compensation.

DETAILED REVIEW OF SCERA POLICY TOPICS

Allowances (e.g., Auto, Uniforms, DSA Equipment; cell phone)

Reimbursements have always been excluded from compensation earnable, as they are not remuneration for services rendered. Allowances, as cash payments to individuals in particular job categories without a requirement that they be used for the purpose designated, have been considered compensation earnable for those job categories.

- For current members, there is no applicable exclusion and allowances always received in cash should continue to be compensation earnable. However, if an item has been received in kind and is converted to a cash allowance, the Board may exclude the cash from the FAS calculation if the cash has been paid to enhance a benefit. I.C.1.
- For new members, allowances are specifically excluded under II.B.7., which excludes employer provided allowance, reimbursement, or payment including, but not limited to, for housing, vehicle or uniforms.

Deferred Compensation

Long standing administrative practice prior to the *Ventura* related litigation was to include in compensation earnable any employer paid contributions to employees' deferred compensation accounts. That treatment was continued under the settlement of the litigation as a matter of discretion based on the historical practice. The clarification of the applicable law in AB 197 and the provisions of AB 340 establish that the discretionary practice should not be continued.

- For current members, employer contributions to employee deferred compensation accounts made on or after January 1, 2013 will not be included in compensation earnable.
- For new members, employer contributions to deferred compensation accounts must be excluded from compensation earnable. II.B.9.

Award or Bonus (individual)

An individual award or bonus, as a cash payment often associated with performance has been considered compensation earnable in the past. The clarifying language of AB197 focuses on the sporadic and individual nature of such payments.

- For current members, any one time or ad hoc payment not paid to similarly situated employees of the same grade or class (I.C.2.) may be determined by the Board to have been paid to enhance a member's retirement benefit. Based on the legislative language, a presumption to exclude the payment from compensation earnable is appropriate.
- For new members, as an ad hoc payment, awards or bonuses would be considered not pensionable compensation. II.B.3.

Standby Premium

Compensation for being on call during periods outside of normal working hours was previously considered payment for a service rendered and was included in compensation earnable.

- For current members, the compensation is a mandatory exclusion from compensation earnable under I.B.2., for payments for services outside normal working hours.
- For new members, the compensation is a mandatory exclusion from pensionable compensation under II.B.6. for payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

Holidays

There are two basic Holiday (the date is an actual Holiday) situations for alternative work schedules and 24-hour shift operations:

1. Employee is scheduled to work a Holiday.
 - Employee can be paid overtime. Overtime has never been compensation earnable; it is not included in the FAS calculation for current members and will not be included for new members.
2. Employee's scheduled day off is also a Holiday.
 - Employee can be paid for the Holiday.
 - For current employees, payment for a Holiday on a day off is not compensation earnable because it is a payment for time in excess of normal working hours (I.A. and I.B.2.) as well as an in kind benefit (Holiday) converted to and received by the member in the form of a cash payment. I.C.1.
 - For new employees, it is not pensionable compensation for the same reasons. II.B.6. and 2.
 - Employee can bank the Holiday time (up to a limit).
 - For current employees, a cash out of banked Holiday is not compensation earnable for the same reasons as payment in the same pay period is not. I.A., I.B.2. and I.C.1.
 - For new employees, a cash out of banked Holiday is not pensionable compensation for the same reasons as payment in the same pay period is not. I.A., II.B.6. and 2.

“Floating Holiday” Time

Also, 8-17 hours of “floating holiday” time have been given each year by the County. An employee can take the time off or bank the hours (up to a limit) and cash out the banked hours.

- For current members, when a cash out occurs, this is comparable to a payment for annual leave, which is limited to the amount earned and payable during the 12 month FAS period. I.B.1.
- For new members, when a cash out occurs, this is a payment for unused annual leave and is not included in pensionable compensation. II.B.5.

Sick Leave

Sick leave can be used or, once a year, up to 24 hours can be cashed out or converted to compensation time and banked.

- If used as sick leave the pay is compensation earnable for current members and pensionable compensation for new members.
- If cashed out:
 - For current members, the amount that can be considered compensation earnable is limited by the amount that is both earned and payable in the 12 month FAS period (for example, with the County, 96 hours can be earned in a year but only 24 hours can be cashed out in a year, so the limit on compensation earnable would be 24 hours). I.B.1.
 - For new members, the amount paid for unused sick leave would not be pensionable compensation. II.B.5.
- If converted to compensation time and banked:
 - For current members, payment for converted and banked sick leave is not compensation earnable because it is a payment for time in excess of normal working hours (I.A. and I.B.2.) as well as an in kind benefit (sick leave) converted to and received by the member in the form of a cash payment. I.C.1.
 - For new members, it is not pensionable compensation for the same reasons. I.A., II.B.6. and 2.

Department Head Notice 5%

As a management succession planning tool, department heads are provided a 5% salary increase for up to a year for advance notice of intent to terminate. As a part of salary, this increase has been considered compensation earnable.

- For current members, there is no specific exclusion applicable. Note that although the salary increase can have the effect of enhancing the member's retirement benefit, the increase is not solely due to termination (but also due to the advance notice) and, more importantly, the law specifically allows for compensation increases earned and payable during FAS period. I.C.3. **After due consideration, the Board determined that because of the circumstances of its award to an individual member and the impact on a member's retirement benefit, this pay code category should be presumed excluded from compensation earnable, as presumptively paid to enhance a member's retirement benefit, which presumption can be overcome only by an affirmative showing of facts and circumstances supporting a contrary determination. I.A. and I.C.**
- On the other hand, for new members there is a specific applicable exclusion (II.B.4.) from pensionable compensation for severance or any other payment in connection with or in anticipation of separation from employment, received while employed.

As a management succession planning tool, department heads are provided a 5% salary increase for up to a year for advance notice of intent to terminate. As a part of salary, this increase has been considered compensation earnable.

- For current members, there is no specific exclusion applicable. Note that although the salary increase can have the effect of enhancing the member's retirement benefit, the increase is not solely due to termination (but also due to the irrevocable advance notice of retirement and succession planning benefits) and, more importantly, the law specifically allows for compensation increases earned and payable during FAS period (I.C.3).
- On the other hand, for new members there is a specific applicable exclusion (II.B.4.) from pensionable compensation for severance or any other payment in connection with or in anticipation of separation from employment, received while employed.

Recruitment-Retention

This rarely used bonus is promised at time of recruitment to encourage employee retention, payable after a period of employment, typically a year.

- There is no absolute exclusion for current members, but there is an exclusion for one time or ad hoc payments if the retirement board determines that the compensation was paid to enhance the member's retirement benefit. I.C.2. Presumably, a payment received after the first year of employment would rarely be paid to enhance the member's retirement benefit, which generally can only be paid at least 10 years after the date of employment. Still, a hard and fast rule is not possible for current employees, only the presumption that the bonus would be compensation earnable.
- On the other hand, as an ad hoc payment or a bonus, this would be considered not pensionable compensation for new members (II.B.3. and 10.).

Flat Payment (ad hoc)

This is not frequently used and there are varying kinds of flat dollar amount or percentage payments to a broad group of employees, with varying circumstances and rationales.

- For current members, if the payment is made to all those similarly situated in the same grade or class, it is not in the suspect class of being paid to enhance a retirement benefit (I.C.2). Under circumstances linking the payment to services, the payment might be compensation earnable. However, because the form of payment need not be linked to compensation for services, a fair presumption is that it is not compensation earnable.
- For new members, as an ad hoc payment, flat payments would be considered not pensionable compensation. II.B.3.



**SCERA Legal Counsel Presentation on
SCERA Implementation Issues**

October 18, 2012 Retirement Board Meeting

California Public Employees' Pension Reform Legislation

SCERA Implementation (Initial Priority Areas)

October 18, 2012



SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

FRAMEWORK TO SCERA LEGAL ANALYSIS

- County Employees Retirement Law (CERL)
- *Guelfi* Appellate Court Decision (1983)
- *Ventura* Supreme Court Decision (1997)
- SCERA Implementation of *Ventura* (1998)
- Consent Decree for *Ventura* Class Action Settlement (2004)
- *Salus*, *In Re Retirement Cases*, and other court decisions
- AB340 and AB197 (effective January 1, 2013)



SONOMA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION



AB340/CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (the "ACT")

- Act intended to apply to all state and local public retirement systems and their participating employers, with limited exceptions (e.g., charter cities and charter counties)
- Coverage extends to systems created under the County Employees Retirement Law of 1937 ("CERL") which includes the Sonoma County Employees' Retirement Association ("SCERA")
- Most of the provisions of the Act apply to public employees who are "new members", as defined in the Act, on or after January 1, 2013. Certain provisions apply to both current and new members
- Legislative effective date of Act is January 1, 2013



SCERA PRINCIPAL FOCUS AREAS

Current Members

Final Compensation Measurement Period
Pension Benefit Formulas
Final Compensation Earnable
Member Contributions

New Members

Final Compensation Measurement Period
Pension Benefit Formulas
Pensionable Compensation
Member Contributions

Post Retirement Employment





SCERA CURRENT MEMBERS

Final Compensation Measurement Period

Period for measurement of final compensation earnable for purpose of calculating pension benefit remains one year under Government Code section 31462.1

Pension Benefit Formulas

Existing formulas (General 3%@60 and Safety 3%@50) will continue to be used for the calculation of benefits for current members and persons hired or entering SCERA on or after January 1, 2013 who are not considered “new members” under the definition contained in AB 340



SCERA CURRENT MEMBERS

Final Compensation Earnable

- AB 197 passed after AB 340 and amended section 31461 of the CERL which defines “compensation earnable”
- Primary intent of the Legislature was to clarify and make explicit the interpretation of section 31461 in light of case law beginning with *Ventura*. Additional statutory language also expressly identifies certain pay items that Legislature intends are *not* included.
- Practical result is minimal change in administration of SCERA plan in relation to determination of “compensation earnable” for current employees





SCERA CURRENT MEMBERS

Final Compensation Earnable

- AB 197 affirms Retirement Association's existing authority to determine what is properly included in compensation earnable
- Essential standard is that compensation paid for the purpose of enhancing retirement benefits may be excluded from "compensation earnable" for purposes of retirement calculation
- General statutory definition of "compensation earnable" unchanged: "The average compensation as determined by the [retirement] board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay." [Section 31461(a)]



SCERA CURRENT MEMBERS

Final Compensation Earnable

- Express legislative declaration that the provisions of AB 197 are intended to be consistent with relevant interpretative case law following *Ventura*, and they are intended to provide clarification regarding the administration of CERL section 31461.
- SCERA and County of Sonoma are covered by a Consent Decree entered in litigation based on the *Ventura* decision. For the period prior to January 1, 2013, SCERA's administration of the CERL (including determinations regarding compensation earnable) is subject to the Decree. Legislative clarification will require minimal adjustment in administration of benefits for current members beginning January 1, 2013. (e.g., treatment of employer paid contributions to deferred compensation accounts will change; under Decree was deemed included but under legislative clarification is not includable compensation)





SCERA CURRENT MEMBERS

Final Compensation Earnable

- Essential focus of CERL definition on compensation provided in relation to the normal or ordinary work period (e.g., regularly scheduled hours, not overtime) that is paid to similarly situated employees in a logical group or class of employment
- Definition contemplates the inclusion of the base or regular pay and certain types of additional compensation paid to similarly situated employees that relate to the nature or the circumstances of performance of services (e.g., premiums such as shift-differential pay) and/or special skills, education, or training related to the services performed (e.g., bilingual pay, educational incentive)
- Definition also contemplates continued inclusion of cash allowances consistently paid to similarly situated employees for work related purpose (e.g. uniform allowance)



SCERA CURRENT MEMBERS

Final Compensation Earnable

- Under clarifying language of section 31461, subdivision (b), “compensation earnable” does *not* include compensation determined by the retirement board to have been paid to enhance a member’s retirement benefit, which *may* include:
 - (A) Compensation previously provided “in kind” to the member or paid directly to third party (other than retirement system) for the benefit of the member which is paid directly to the member in cash during the final compensation measurement period (“FAS period”).
 - Example: Assigned auto converted to cash allowance payment in FAS period





SCERA CURRENT MEMBERS

Final Compensation Earnable

- Ineligible compensation to enhance benefits *may* include (cont.):
 - (B) One-time or ad hoc payment to member that is not made to all similarly situated employees
Example: Lump sum payment to employee in conjunction with employment resignation-already excluded by SCERA
 - (C) Any payment made during employment but solely due to termination of member's employment except for an amount that does not exceed what was earned and payable during the FAS period
Example: Possible payment in conjunction with commitment to early retirement-currently excluded by SCERA



SCERA CURRENT MEMBERS

Final Compensation Earnable

- Under clarifying language of AB 197, pay items that are *not* included in "final compensation" are:
 - Payments for unused leave (e.g., vacation, sick, holiday, compensatory time), whether paid in lump sum or otherwise, that exceeds amount earnable and payable in FAS period
 - Payments for additional services rendered outside of normal working hours (e.g., overtime, stand-by time)
 - Payments made at termination of employment except amounts that do not exceed what is earned and payable in the FAS period





SCERA CURRENT MEMBERS

Member Contributions

- Effective January 1, 2013 the language of CERL section 31631 provides that the employer, without a change in benefits and to the extent that such authority existed prior to that date, can require that members pay all or part of the necessary contribution of a member or the employer, or both, and the required contributions will be considered employee contributions
- For represented employees such changes in contribution requirements must be approved by an executed memorandum of understanding (i.e., payment requirements cannot be imposed after impasse without agreement)
- Contribution requirements must be uniform within a bargaining unit or within the general or safety SCERA membership classifications



SCERA CURRENT MEMBERS

Member Contributions

- Effective January 1, 2018 CERL section 31631.5 provides that employers can impose a requirement that employees pay 50 percent of the normal cost of benefits if contracts or agreements specifying a different cost sharing arrangement not in effect at that date
- For represented employees such a requirement can only be imposed following completion of the good faith collective bargaining including impasse and, if applicable, mediation
- Rates of contribution that are imposed by an employer can only exceed the statutorily authorized member rates as of December 31, 2012 by certain percentage amounts specified in section 31631.5





SCERA CURRENT MEMBERS

Member Contributions

- Apparent practical effect of AB 340 CERL provisions is to allow for a five year period during which the collective bargaining process will be the primary means to implement, if possible, changes in member contribution rates. Thereafter, an employer's statutory authority under section 31631.5 to require such changes for current SCERA members will become operative and at issue
- *Legislative Caveat:* Both sections 31631 and 31631.5 include the declaration that nothing in the sections is intended to modify the employers' authority under the law as of December 31, 2012, including restrictions on that authority, to change the amount of member contributions. The extent of the existing authority of an employer to change retirement contribution rates is not further clarified.



NEW SCERA MEMBERS

- Provisions of AB 340 apply to "new members", as statutorily defined, on or after January 1, 2013. Generally, a new member is: 1) a person who first becomes a member of SCERA after that date having never previously been a member of a public retirement system, 2) a person who becomes a member of SCERA after that date who is not subject to reciprocity established under the CERL, and 3) a person who was an active member of SCERA who, after a break in service of more than six months, returns to active membership in SCERA with a new employer
- In general, individuals becoming active members of SCERA on or after January 1, 2013 who are not considered "new members", as defined in AB 340, will have same benefits as the current members





NEW SCERA MEMBERS

Compensation Measurement Period (FAS Period)

- The “pensionable compensation” for new members must be measured over a FAS period of 36 consecutive months (i.e., a three year measurement period)

Pensionable Compensation Limit

- The total amount of any of a member’s eligible pensionable compensation that may be used to calculate retirement benefits cannot exceed the amount of the Social Security wage base as adjusted over time (it is currently \$110,100) or 120% of the wage base (currently \$132,120) if the employee is not participating in Social Security



NEW SCERA MEMBERS

Mandated Benefit Formulas

- Significant change is the Legislature mandates that SCERA employers provide a specific lower formula for new general members and one of three possible lower formulas for new safety members. Only the legislatively required formulas may be provided unless an alternative existing or bargained for formula can be shown to be “less costly” with “less risk”
- For general members the formula effectively provides for a 2% benefit factor at age 62, with reduced factors for earlier retirement and increased for later retirement up to maximum of 2.5% at age 67
- For safety members the formula must be the one specified in section 7522.25 that is “closest to, and provides a lower benefit at 55 years of age” that SCERA’s current safety formula (requires actuarial analysis to determine)





NEW SCERA MEMBERS

Mandated Benefit Formulas

- A safety formula required by AB 340 implemented on or after January 1, 2013 may be replaced by an even *lower* alternative formula by means of collective bargaining
- The defined benefit provided (i.e., formula) must be the same for non-represented, managerial, and supervisory employees as the employer provides to other employees, including represented employees, in the same membership classification



NEW SCERA MEMBERS

Pensionable Compensation

- The basic concept of pensionable compensation under AB 340 is consistent with the existing definition of compensation earnable under the CERL. It essentially covers pay that is made equally to similarly situated employees for services rendered on a full-time basis during normal working hours. This means that pensionable compensation is intended to include the base rate of pay (e.g., the base hourly pay rate for the pay grade) PLUS certain forms of additional or special compensation directly related to the nature or the circumstances of performance of services (e.g., hazard pay, shift differential) and/or special skills, education, or training related to the services performed (e.g., bilingual pay, educational incentive)
- Significant change under AB 340 is to expressly identify certain types of pay items that will *not* be included in pensionable compensation





NEW SCERA MEMBERS

Pensionable Compensation

General Exclusions:

- Compensation determined by board of retirement to have been paid in order to increase a member's retirement benefit
- Any form of compensation determined by board to be inconsistent with the essential definition of "pensionable compensation" in section 7522.34(a)
- Any form of compensation the board determines should not be pensionable compensation



NEW SCERA MEMBERS

Pensionable Compensation

- Specific Exclusions/May Differ From Past Practice:
- Any payments for unused and accumulated leave (e.g., vacation) regardless of when earned or paid
- Compensation previously paid in kind or directly to a third party for member's benefit converted to cash and received by member during FAS period
- Any employer provided allowances, reimbursements, including, but not limited to housing, vehicle, or uniforms
- Employer contributions to deferred compensation or deferred contribution plans
- Payments for services rendered outside of normal working hours





NEW SCERA MEMBERS

Pensionable Compensation

- Specific Exclusions/Continue Past Practice:
- Any one-time or ad hoc payments to a member
- Payments for overtime other than that covered by FLSA
- Severance or any other payment to a member in conjunction with or in anticipation of separation from employment that is received by the member while still employed
- Any bonus paid in addition to pensionable compensation as defined in AB 340



NEW SCERA MEMBERS

MEMBER CONTRIBUTIONS

- AB 340 establishes that the standard for new members shall be equal sharing of normal cost between employers and employees. Under that standard employees shall pay *at least* 50 percent of normal costs and employers shall not pay any portion of required employee contributions.
- New employees employed on or after January 1, 2013 by SCERA employers shall have an initial contribution rate of at least 50 percent of the normal cost for the defined benefit plan
- Definition of “normal cost” in the statute is consistent with commonly accepted usage in actuarial practice [sections 7522.04(g) and 7522.30(b)]. SCERA’s actuary will determine the normal cost for the applicable defined benefit plan (new tier and legacy tier)





NEW SCERA MEMBERS

MEMBER CONTRIBUTIONS

New member contributions *may* be more than 50 percent of normal cost:

- If the increase is agreed to as the result of collective bargaining (approved memorandum of understanding and no impasse implementation)
- Employer cannot contribute to the retirement plan at a greater rate for non-represented, managerial, or supervisory employees than the employer contributes for other employees, including represented employees, of that employer
- However, if terms of a contract, including a memorandum of understanding, in effect on January 1, 2013 “would be impaired” by a cost sharing requirement of AB 340, the requirement will not apply until expiration of the contract



POST RETIREMENT EMPLOYMENT

POST RETIREMENT EMPLOYMENT

There are two distinct but related issues regarding re-employment following retirement: 1) preservation of tax qualified status under the Internal Revenue Code, and 2) compliance with the new requirements of AB 340

Compliance With AB 340:

- Prohibits post retirement employment with an employer participating in SCERA for any person receiving a pension benefit from SCERA (“retired member”) without reinstatement from retirement *or* termination of retirement benefits except:
 - In an emergency
 - Because retired member has needed skills to perform work of limited duration (e.g., 960 hours of employment)





POST RETIREMENT EMPLOYMENT

POST RETIREMENT EMPLOYMENT-AB340

- Basic restriction that on or after January 1, 2013 a retired member is not eligible for re-employment for a period of 180 days measured from the date of retirement, except:
 - If employer certifies necessity for appointment and it is approved in a public meeting
 - If the retiree is a public safety officer or firefighter
 - These exceptions do not apply if the retiree accepted a retirement incentive at the time of retirement
- Establishes a 12-month waiting period for re-employment if the retired member received any unemployment insurance compensation arising out of prior employment with a SCERA covered employer



POST RETIREMENT EMPLOYMENT

POST RETIREMENT EMPLOYMENT-AB340

- Retired member already re-employed by a covered employer prior to January 1, 2013 is not required to terminate that employment. They will be limited after that date as provided in the statute (e.g., 960 hours of employment during a year)
- Retired member who is not re-employed as of January 1, 2013 will be subject to the conditions for re-employment under the statute. Likely administration under the statutory language is that the required 180 day waiting period will still be measured from the date of retirement rather than the effective date of AB 340





FINAL COMMENTS AND NEXT STEPS

- This presentation was focused on priority implementation areas to support initial communication to members and required actuarial topics for implementation of new member benefit formulas
- SCERA continues further detailed implementation analysis including work with other SACRS member systems toward full implementation of legislative changes included in AB340 and AB197





**SCERA Response to Segal Issues Regarding
Implementation of Provisions in CalPEPRA**

**Approved at
October 18, 2012 Retirement Board Meeting**

**Segal Issues Regarding Implementation of Provisions in CalPEPRA
Staff/Counsel Responses Subject to Retirement Board Review
October 18, 2012**

Questions from Segal October 12, 2012 letter and draft SCERA responses:

Issues for SCERA members with membership dates on or after January 1, 2013

1. Confirm that member and employer contributions will only be collected up to the new, lower CalPEPRA maximum contribution limits

Yes. Collecting employee and employer contributions for new members only up to the CalPEPRA contribution limits is consistent with the earnings limit on which a benefit is calculated.

2. Provide information on how the new pensionable compensation definition affects compensation information reported to us both for determining individual member salaries in the annual actuarial valuation and for setting cashout assumptions for use in those valuations.

The pensionable compensation definition for new members is outlined in the SCERA pension reform legislation implementation slide set reviewed at the October 18, 2012 Retirement Board meeting.

SCERA has additional work to review the pay code detail for employers based on the compensation framework.

Cashout assumption of zero is appropriate given elimination of retirement compensation for unused leave cashouts for new members.

3. Confirm that we should exclude the industrial disability plan change for Safety members until such time as it has been determined whether this plan change affects 1937 CERL retirement systems.

Yes. Our understanding is that clarifying legislation is planned to be introduced to confirm that the industrial disability provision was not intended to and does not apply to CERL retirement systems.

4. Confirm that the three-year period for final compensation affects any benefits determined using service or disability retirement formulas, but not the pre-retirement death lump sum benefit.

Yes.

5a. Confirm that the Unfunded Actuarial Accrued Liability (UAAL) will continue to be spread over compensation including members with membership dates on or after January 1, 2013.

Yes. Given the new tier was added mid-year during Fiscal Year 2012/2013, applying the current UAAL rate (from the December 31, 2010 Actuarial Valuation due to 18 month implementation lag) to compensation for the new tier is appropriate. In addition, a computation with UAAL rates from the December 31, 2011 Actuarial Valuation would support implementation of new tier employer contribution rates as of July 1, 2013.

5b. Also, confirm that UAAL rates from December 31, 2011 valuation will be collected only up to the maximum compensation limit under CalPEPRA, even though this will result in a small actuarial loss during the first year (i.e. 2013/2014).

Yes. UAAL rates as part of employer contribution rates would be collected only up to the maximum compensation limit under CalPEPRA. We would expect this to be only a first year transition issue as we expect to adjust compensation reported to the actuary so that UAAL rates are set assuming the compensation earnings base on which contributions are taken. The magnitude of earnings above the compensation limit times the UAAL rate in the first year implementation is not considered significant. After the earnings base is reset the small actuarial loss will not occur in future valuations.

6a. Confirm use of single (non-entry age based) 50% of normal cost member rate for each cost group and that any contribution rate adjustment to those new rates to reflect contribution for "similarly situated" employees be applied outside the valuation process.

Yes. A flat rate employee contribution rate would better support application of 50/50 normal cost rate split and be easier to administer vs. more complex age based rates.

6b. Confirm whether the 3.03% General and 3.00% Safety supplemental member contributions will continue to be collected from the new members and whether they will be considered as part of members' normal cost contribution or collected in addition to the members' normal cost contributions.

Yes. Current MOU language references supplemental member contributions to be collected. SCERA Legal Counsel Interpretation of Government Code Section 31678.2 links the supplemental member contributions as funding toward the UAAL from retroactive benefit changes and not a contribution toward normal cost.

7. Confirm that benefits under the CalPEPRA formulas are not subject to a limit of 100% of final average salary.

Yes.

8. Confirm that the current 0% Cost-of-Living Adjustments (COLAs), death and disability benefits and thirty-year member contribution cessation will continue under the CalPEPRA formulas.

SCERA does not have a standard COLA program as part of the benefit structure.

Based on SCERA Legal Counsel Analysis, thirty-year member contribution cessation does not apply to CalPEPRA tiers for new members.

Issues for SCERA members with membership dates before January 1, 2013

9. Confirm that we should exclude the industrial disability plan change for Safety members until such time as it has been determined whether this plan change affects 1937 CERL systems.

Yes. Our understanding is that clarifying legislation is planned to be introduced to confirm that the industrial disability provision was not intended to and does not apply to CERL retirement systems.

10. *Provide information on how the new compensation earnable definition affects compensation information reported to us both for determining individual member salaries in the annual actuarial valuation and for setting cashout assumptions for use in those valuations.*

There is a short list of incremental limitations on compensation earnable for current employees as outlined in the SCERA pension reform legislation implementation slide set reviewed at the October 18, 2012 Retirement Board meeting. SCERA will be working with employers to implement these compensation changes in the employer payroll records for future actuarial valuations. The magnitude of the changes to compensation earnable effective January 1, 2013 is not considered significant enough to warrant adjustment of the cashout assumption for the December 31, 2012 actuarial valuation. If more significant changes occur through collective bargaining in 2013 then a review of the cashout assumption may be warranted for future actuarial valuations.

11. *Provide information on whether, how and when the change to a member sharing of 50 percent of the normal cost will be reflected in the actuarial valuation.*

50 percent cost sharing of normal cost for current employees is subject to collective bargaining. Further detail is outlined in the SCERA pension reform legislation implementation slide set reviewed at the October 18, 2012 Retirement Board meeting.

12. *Provide any other information that may affect the annual actuarial valuation.*

Note: SCERA contacted Segal regarding the retirement incidence assumption for the CalPEPRA new benefit tiers. It is our understanding from discussions with Segal that they will exercise their professional judgment in setting certain assumptions, like retirement incidence, in connection with the new tier actuarial valuation based on changes in new tier formulas from current formulas. This is standard Segal policy for new tier valuations. These assumptions will be noted in the new tier actuarial valuation report to be reviewed by the Retirement Board on November 26, 2012.