An act to amend Section 31461 of the Government Code, relating to public employees’ retirement.

LEGISLATIVE COUNSEL’S DIGEST


The County Employees Retirement Law of 1937 (CERL) authorizes counties to establish retirement systems pursuant to its provisions for the purpose of providing pension, disability, and other benefits to county and district employees. CERL defines compensation earnable for purposes of its provisions, with particular application to the calculation of final compensation and the determination of pension amounts and other benefits. Existing law, the Public Employees’ Pension Reform Act of 2013, prescribes various limitations on public employees, employers, and retirement systems concerning, among other things, the types of remuneration that may be included in compensation that is applied to pensions.

This bill would prescribe, for CERL, a definition of compensation earnable that would include any form of remuneration, whether paid in
cash or as in-kind benefits, if specified requirements are met. The bill
would state that these provisions are declarative of existing law.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 31461 of the Government Code is
amended to read:

31461. (a) “Compensation earnable” by a member means 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. The computation
for any absence shall be based on the compensation of the position
held by the member at the beginning of the absence. Compensation,
as defined in Section 31460, that has been deferred shall be deemed
“compensation earnable” when earned, rather than when paid.
(b) Except as provided in subdivision (c), “compensation
earnable” does not include, in any case, the following:
(1) Any compensation determined by the board to have been
paid to enhance a member’s retirement benefit under that system.
That compensation may include:
(A) Compensation that had previously been provided in kind
to the member by the employer or paid directly by the employer
to a third party other than the retirement system for the benefit of
the member, and which was converted to and received by the
member in the form of a cash payment in the final average salary
period.
(B) Any one-time or ad hoc payment made to a member, but
not to all similarly situated members in the member’s grade or
class.
(C) Any payment that is made solely due to the termination of
the member’s employment, but is received by the member while
employed, except those payments that do not exceed what is earned
and payable in each 12-month period during the final average
salary period regardless of when reported or paid.
(2) Payments for unused vacation, annual leave, personal leave,
sick leave, or compensatory time off, however denominated,
whether paid in a lump sum or otherwise, in an amount that exceeds
that which may be earned and payable in each 12-month period
during the final average salary period, regardless of when reported
or paid.
(3) Payments for additional services rendered outside of normal
working hours, whether paid in a lump sum or otherwise.
(4) Payments made at the termination of employment, except
those payments that do not exceed what is earned and payable in
each 12-month period during the final average salary period,
regardless of when reported or paid.
(c) (1) Notwithstanding subdivision (b) and Section 31460,
“compensation earnable” means any form of remuneration, whether
paid in cash or as in-kind benefits, if all of the following
requirements are met:
(A) The remuneration is made available to any person in the
same grade or class of positions. For purposes of this subdivision,
“grade or class of positions” means a number of employees
considered together because they share similarities in job duties,
work location, collective bargaining unit, or other logical,
work-related grouping. A single employee shall not be considered
a grade or class of positions.
(B) The remuneration is not expressly excluded from
“compensation earnable” pursuant to paragraphs (2) to (4),
inclusive, of subdivision (b).
(C) With regard to The remuneration is paid between on or after
January 1, 2013, and July 30, 2020, the remuneration was
included in compensation earnable, and the employer and employee
paid contributions to the retirement system based on the
remuneration.
(D) On the date that the act adding this subdivision becomes
operative, the board of retirement has not completed a formal
action to reverse a prior determination that a form of remuneration,
to which this subdivision would otherwise apply, is compensation
earnable.
(2) This subdivision is declarative of existing law.
(d) The terms of subdivision (b) are intended to be consistent
with and not in conflict with the holdings in Salus v. San Diego