



PERA-Includable SALARY

There are situations when Colorado PERA members and retirees might receive extra compensation such as per diems or reimbursements. This fact sheet explains when such extra payments are considered PERA-includable salary.

WHAT IS PERA-INCLUDABLE SALARY?

Colorado state law, C.R.S. § 24-51-101(42)(a) and PERA Rule 1.20F, define forms of compensation that are includable salary for PERA purposes and are subject to PERA contributions.

Compensation Subject to PERA Contributions:

- » Regular salary and pay.
- » Any pay for administrative, sabbatical, annual, sick, vacation, or personal leave.
- » Pay for compensatory time or holidays.
- » Payments by an employer from grants.
- » Amounts deducted from pay pursuant to tax-sheltered savings or retirement programs.
- » Amounts deducted from pay for a health savings account as defined in 26 U.S.C. Sec. 223, as amended, or any other type of retirement health savings account program.
- » Performance or merit payments that meet the requirements in Rule 1.20F(3).
- » Special pay for work-related injuries paid by the employer prior to termination of membership.
- » Retroactive salary payments pursuant to court orders, arbitration awards, or litigation and grievance settlements.
- » Accrued leave payouts (including sick leave) that meet the requirements in Rule 1.20F(1).
- » Tips.
- » Cash payments made in lieu of fringe benefits that meet the requirements in Rule 1.20F(2).

- » One-time payments that meet the requirements in Rule 1.20F(7).
- » Contributions made under an Internal Revenue Code Section 125 or 132 plan for members who began membership on or after July 1, 2019.

State law also defines those forms of compensation which are excluded from PERA salary and not subject to PERA contributions.

Compensation NOT Subject to PERA Contributions:

- » Commissions.
- » Compensation for unused sick, annual, vacation, administrative, or other accumulated paid leave contributed to a health savings account as defined in 26 U.S.C. Sec. 223, as amended, or a retirement health savings program.
- » Housing allowances, uniform allowances, automobile allowances or usage values, insurance premiums, dependent care assistance, reimbursement for expenses incurred, tuition, or any other fringe benefits, regardless of federal taxation.
- » Bonuses for services not actually rendered, including, but not limited to, early retirement inducements, Christmas bonuses, cash awards, honorariums, and severance pay.
- » Damages, except for retroactive salary paid pursuant to court orders, arbitration or litigation, and grievance settlements.
- » Payments earned beyond the date of member's death.
- » Contributions made under an Internal Revenue Code Section 125 or 132 plan for members who began membership on or before June 30, 2019.

(Continued on reverse)



PERA-Includable SALARY

LEGISLATORS

Each member of the General Assembly, who resides in the Denver metropolitan area, is entitled to receive a per diem (\$45 per legislative day) for expenses incurred during the sessions of the General Assembly. This per diem is considered PERA-includable salary.

Members of the General Assembly who reside outside the Denver metropolitan area are eligible to receive a higher amount per legislative day for expenses incurred. However, the payment of these daily expenses at a higher rate is not PERA-includable salary.

When the General Assembly is not in session or is in recess for more than three days, in addition to receiving a base compensation, the following members of the General Assembly will also receive a per diem (\$99) for necessary attendance at meetings or functions as listed below:

- » Any member of the General Assembly who attends a meeting of the Legislative Council, committees established by the Legislative Council, interim committees authorized by law or by joint resolution of the two houses, or the Committee on Legal Services.
- » The chair of an interim committee authorized by law or by joint resolution, or the chair's designee, who attends a meeting of the Legislative Council, or the Executive Committee of the Legislative Council, at the request of the Legislative Council or the Executive Committee.
- » The President of the Senate, the Speaker of the House of Representatives, the Senate and House Majority and Minority leaders for attendance to matters pertaining to the General Assembly, whether the matters are at the Capitol or elsewhere. Individuals who have been chosen after a general election to serve as President, Speaker, and Majority and Minority leaders for the next legislative biennium will also be entitled to the same compensation as is provided for current leaders as long as the new leaders are members of the current General Assembly.
- » Any member of the General Assembly who is assigned to perform sunrise and sunset reviews as outlined in C.R.S. § 2-3-1201.

- » Any member of the Joint Budget Committee (JBC) or Legislative Audit Committee (LAC) who attends a meeting of the JBC or LAC, or, with the approval of the chair, who attends a State function or a function at a State institution or State agency at which matters concerning the JBC or the LAC are considered.

The \$99 per diem that these members of the General Assembly will receive as outlined is considered PERA-includable salary. Any reimbursement for expenses paid to a legislator for such participation as previously outlined is not considered PERA-includable salary.

RETIREES SERVING ON STATE BOARDS

If a PERA retiree is on a State-level board or appointed to a board by the Governor, any per diem paid to the retiree is considered compensation for services performed and is subject to PERA employer contributions and the working retiree contribution. The working retiree contribution would also be collected as an offset to the PERA benefit for such retirees. Payments made to a PERA retiree for actual expenses incurred are not subject to PERA contributions.

Examples include the State Personnel Board, State Board of Land Commissioners, Colorado Water Control Commission, etc.

MEMBERS SERVING ON A BOARD ASSOCIATED WITH THE PERA LOCAL GOVERNMENT DIVISION

If a PERA member is elected to a board associated with a special district or if a PERA member is employed by a municipality and can exempt out of PERA membership and chooses not to, any per diem payments or expenses received by the member will be PERA-includable salary; actual reimbursements are not considered PERA-includable salary.

Examples include boards associated with water districts, parks and recreation, and fire protection districts.

- ▶ **Per diem payments** count as PERA-includable salary. **Reimbursement for actual expenses** is excluded from PERA-includable salary.