

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

441



FROM: Human Resources Department

SUBMITTAL DATE:
November 25, 2008

SUBJECT: Adopt Resolution 2008-502 and 2008-506 to provide authority for employer paid member contributions with time-in-grade exceptions with the California Public Employees' Retirement System (CalPERS).

RECOMMENDED MOTION: Adopt Resolution 2008-502 and 2008-506 to satisfy the legal requirements of IRC Section 414(h)(2) related to Employer Paid Member Contributions (EPMC) with the California Public Employees' Retirement System (CalPERS).

BACKGROUND: Internal Revenue Code (IRC) Section 414(h)(2) allows public agencies to designate required CalPERS employee contributions as being "picked-up" by the employer and treated as employer contributions for tax purposes.

(continued on Page 2)

Ronald W. Komers
Asst. County Executive Officer/Human Resources Dir.

FINANCIAL DATA	Current F.Y. Total Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	N/A	For Fiscal Year:	2008-2009

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY:
Elizabeth J. Olson

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dept Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: | **District:** | **Agenda Number:**

3.38

FORM APPROVED BY: ROBERT PER, JR. DATE: 11/25/08
 Departmental Council COUNTY COUNSEL

Background continued

The effect of a pick-up is to defer tax on employee contribution amounts until the employee retires and receives retirement benefits, or separates from employment and takes a refund of contributions. The County has provided this benefit according to the provisions of each applicable Memorandum of Understanding (MOU) to eligible employees covered under both the Miscellaneous and Safety CalPERS contracts.

Absent the 414(h)(2) provision applicable to governmental plans, employee contributions to a defined benefit pension plan qualified under Section 401(a) would automatically be after-tax contributions (e.g. taxable income to the employee at the time the contribution was made).

Revenue Ruling 2006-43 allows employers who do not have written evidence of a pick-up to be treated as meeting the requirements of 414(h)(2) for past pre-tax contributions if the employer takes formal action in writing prior to December 31, 2008 with respect to future picked-up contributions.

Revenue Ruling 2006-43 provides, in general, that an employee contribution will not be treated as “picked-up” under IRC 414(h)(2) unless:

- (1) The employer specifies that the contributions, although designated as employee contributions, are being paid by the employer, and
- (2) The employer does not permit participating employees to opt out of the pick-up or receive the contributed amounts directly instead of having them paid by the employer to the plan.

Approval of Resolution 2008-502 and 2008-506 will satisfy the legal requirements of IRC Section 414(h)(2) and Revenue Ruling 2006-43. Signed Resolutions *must be provided* to CalPERS prior to December 31, 2008.

There is no additional cost to the County by approval of this Resolution.

Board of SupervisorsCounty of Riverside**RESOLUTION NO. 2008-502****REGARDING EMPLOYER PICK-UP OF MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEE'S RETIREMENT SYSTEM (CalPERS)**

WHEREAS, the Board of Supervisors of the County of Riverside is a contracting Public Agency of the Public Employees' Retirement System.

WHEREAS, the _____ County of Riverside _____ has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the Board of Administration of the Public Employees' Retirement System adopted its resolution regarding section 414(h)(2) IRC on September 18, 1985; and

WHEREAS, the Internal Revenue Service has stated in December 1985 that the implementation of the provisions of section 414(h)(2) IRC pursuant to the Resolution of the Board of Administration would satisfy the legal requirements of section 414(h)(2) IRC; and

WHEREAS, the _____ County of Riverside _____ has determined that even though the implementation of the provisions of section 414(h)(2) IRC is not required by law, the tax benefit offered by section 414(h)(2) IRC should be provided to its employees who are members of the Public Employees' Retirement System:

NOW, THEREFORE, BE IT RESOLVED:

- I. That the _____ County of Riverside _____ will implement the provisions of section 414(h)(2) Internal Revenue Code by making employee contributions pursuant to California Government Code section 20691 to the Public Employees' Retirement System on behalf of its employees who are members of the Public Employees Retirement System. "Employee contributions" shall mean those contributions to the Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20691.
- II. That the contributions made by the County of Riverside to the Public Employees' Retirement System, although designated as employee contributions, are being paid by the _____ County of Riverside _____ in lieu of contributions by the employees who are members of the Public Employees' Retirement System.
- III. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the _____ County of Riverside _____ to the Public Employees' Retirement System.
- IV. That the _____ County of Riverside _____ shall pay to the Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds as used in paying salary.
- V. That the amount of the contributions designated as employee contributions and paid by the Riverside County of Riverside _____ to the Public Employees' Retirement System on behalf of an employee shall be the entire contribution required of the employee by the Public Employees' Retirement Law (California Government Code sections 20000, et seq.).
- VI. That the contributions designated as employee contributions made by County of Riverside to the Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the Public Employees' Retirement System.

**BOARD OF SUPERVISORS
OF THE
COUNTY OF RIVERSIDE
RESOLUTION
FOR
EMPLOYER PICK-UP OF MEMBER CONTRIBUTIONS**

Resolution 2008-502

Adopted and approved this _____ day of _____, _____.

ATTEST:
Clerk of the Board
Nancy Romero

COUNTY OF RIVERSIDE:

By: _____
Deputy

By: _____
Chairman, Board of Supervisors

Date: _____

Date: _____

RESOLUTION NO. 2008-506

**RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS
WITH TIME-IN-GRADE EXCEPTIONS**

WHEREAS, the Board of Supervisors of the County of Riverside is a contracting Public Agency of the Public Employees' Retirement System.

WHEREAS, the Board of Supervisors of the County of Riverside has elected to pay all or a part of the normal member contributions to the California Public Employees' Retirement System (CalPERS) pursuant to Government Code Section 20691, and applicable labor policies or agreements;

WHEREAS, the Board of Supervisors of the County of Riverside may elect a time-in-grade Exception to said Employer Paid Member Contributions (EPMC) within a given group or class of employees as defined in Government Code Section 20636(e)(1) and as specifically authorized in Title 2, California Code of Regulations Section 569;

WHEREAS, the Board of Supervisors of the County of Riverside has identified the following conditions for the application of said Exception:

- This exception shall apply to all employees in the following bargaining units: Supervisory Unit; Professional Unit; Registered Nurses Unit; Para-Professional Unit; Inspection and Technical Unit; Trades, Crafts and Labor Unit; Supporting Services Unit; Public Safety Unit; and Law Enforcement Unit.
- New employees pay 100% of Member contributions.
- For employees covered by the Memorandum of Understanding for the Inspection and Technical Unit; Trades, Crafts and Labor Unit; and Supporting Services Unit on July 11, 2002, the County of Riverside will pay EPMC of 1% attributable to the increased member contribution resulting from the adoption of the 3% @60 retirement formula.
- Other than Safety members of the Law Enforcement Unit; once a newly-hired employee accrues five (5) years of total service (either on a continuous or cumulative basis), s/he shall be entitled to payment of EPMC for the full amount of applicable member contributions. Once a newly-hired employee, who is a Safety member in the Law Enforcement Unit, accrues three (3) years of total service (either on a continuous or cumulative basis), s/he shall be entitled to payment of EPMC for the full amount of applicable member contributions. In so resolving, the governing body of the County of Riverside agrees to abide by Section 569, the terms of which are incorporated-by-reference as if fully set forth herein.
- The effective date of this Resolution shall be the date referenced in each applicable bargaining unit's Memorandum of Understanding with the County of Riverside.

**BOARD OF SUPERVISORS
OF THE
COUNTY OF RIVERSIDE
RESOLUTION
FOR
EMPLOYER PICK-UP OF MEMBER CONTRIBUTIONS**

Resolution 2008-506

Adopted and approved this _____ day of _____, _____.

ATTEST:
Clerk of the Board
Nancy Romero

COUNTY OF RIVERSIDE:

By: _____
Deputy

By: _____
Chairman, Board of Supervisors

Date: _____

Date: _____