



SUBMITTAL TO THE BOARD OF DIRECTORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

437



FROM: Riverside County Regional Park & Open-Space District

SUBMITTAL DATE:
November 24, 2008

SUBJECT: Adopt Resolution Number 2008-11 to Satisfy the Legal Requirements of IRC Section 414(h)(2) with the California Public Employees' Retirement System (CalPERS) and Resolution Number 2008-12 to Amend Pre-Existing Resolution to Pay Employer Paid Member Contribution (EPMC)

RECOMMENDED MOTION: that the Board:

- 1) Adopts Resolution Number 2008-11 to satisfy the legal requirements of IRC Section 414(h)(2) with the California Public Employees' Retirement System (CalPERS) allowing employee contributions to be "picked-up" by the employer and treated as employer contributions for tax purposes; and
- 2) Adopts Resolution Number 2008-12 to amend a pre-existing Resolution to pay Employer Paid Member Contributions (EPMC) to CalPERS pursuant to Government Code Section 20691.

BACKGROUND: (on page 2)

685-CalPERS ER Pickup

Paul Frandsen

Paul Frandsen, General Manager

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: *Alex Gann*
Alex Gann

County Executive Office Signature

- Policy
- Consent
- Policy
- Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.:

District: All

Agenda Number:

13.3

FORM APPROVED COUNTY COUNSEL
BY: *Robert M. Pepper, Jr.*
ROBERT M. PEPPER, JR.
DAY

SUBJECT: Adopt Resolution Number 2008-11 to satisfy the legal requirements of IRC Section 414(h)(2) with the California Public Employees' Retirement System (CalPERS) and Resolution Number 2008-12 to Amend Pre-Existing Resolution to Pay Employer Paid Member Contribution (EPMC)

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. 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 the attached Resolution 2008-11 for the Riverside County Regional Park and Open-Space District will satisfy the legal requirements of IRC Section 414(h)(2) and Revenue Ruling 2006-43. The signed Resolution must be provided to CalPERS prior to December 31, 2008.

Also attached for your honorable Board's approval is Resolution 2008-12. This allows public agencies to pay all or part of the normal contributions to CalPERS pursuant to Government Code Section 20691 with conditions as outlined in Resolution 2008-12.

There is no additional cost to the Park District by approval of these Resolutions.

The Office of County Counsel has reviewed and approved these Resolutions as to legal form.

RESOLUTION NO. 2008-11
REGARDING EMPLOYER PICK-UP OF MEMBER CONTRIBUTIONS TO THE
CALIFORNIA PUBLIC EMPLOYEE'S RETIREMENT SYSTEM (CalPERS)

WHEREAS, the Riverside County Regional Park and Open-Space District 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 Riverside County Regional Park and Open-Space District 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 Riverside County Regional Park and Open-Space District 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 Riverside County Regional Park and Open-Space District to the Public Employees' Retirement System, although designated as employee contributions, are being paid by the Riverside County Regional Park and Open-Space District 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 Riverside County Regional Park and Open-Space District to the Public Employees' Retirement System.
- IV. That the Riverside County Regional Park and Open-Space District 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 Regional Park and Open-Space District 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 the Riverside County Regional Park and Open-Space District 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.

By: _____

Chairman, Board of Directors

(Date adopted and approved)

2008-12

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

WHEREAS, the governing body of the Riverside County Regional Park and Open-Space District (RCRPOSD) has elected to pay all or 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 governing body of the RCRPOSD 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 governing body of the RCRPOSD has identified the following conditions for the application of said Exception:

- This exception shall apply to all employees in the following bargaining units: General and Supervisory.
- New employees pay 100% of Member contributions.
- For employees covered by the Memorandum of Understanding for the General and Supervisory Bargaining Units 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.
- 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. 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.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Riverside County Regional Park and Open-Space District elects a time-in grade Exception as set forth above.

By: _____

Chairman, Board of Directors

(Date adopted and approved)