

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

506



FROM: County Counsel

SUBMITTAL DATE:
July 8, 2010

SUBJECT: Ordinance No. 900, Proposing Riverside County Ordinance No. 899 for Adoption by the Voters at the November 2, 2010 General Election

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt Ordinance No. 900, Proposing Riverside County Ordinance No. 899 for Adoption by the Voters at the November 2, 2010 General Election;
2. Authorize a member or members of the Board to prepare a written ballot argument and rebuttal in favor of Ordinance No. 899; and
3. Authorize a member or members of the Board to prepare a written ballot argument in opposition to the initiative proposed by the Riverside Sheriffs' Association.

(Continued on next page)

Departmental Concurrence

Pamela J. Walls
County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

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

C.E.O. RECOMMENDATION:

APPROVE
Bill Luna

County Executive Office Signature

- | | |
|----------------------------------|--|
| <input type="checkbox"/> Consent | <input checked="" type="checkbox"/> Policy |
| <input type="checkbox"/> Consent | <input checked="" type="checkbox"/> Policy |

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

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

3.95

BACKGROUND: During the May 18, 2010 hearing, the Board of Supervisors directed County Counsel to draft a proposed ordinance in response to the initiative sponsored by the Riverside Sheriffs' Association ("RSA"). If passed, this initiative would prohibit the Board from reducing or adjusting the retirement benefits and pre-retirement death benefits of public safety officers. The Board expressed a desire to retain its discretion to adjust or decrease public safety officer retirement benefits generally, but wanted widows and orphans of public safety employees to be protected against any reduction in benefits paid to them upon the death of a public safety officer.

Proposed Ordinance No. 899 retains the Board's discretion to adjust or decrease the retirement and pre-retirement death benefits of public safety officers to the extent permitted by law. It also provides, however, that benefits paid to widows and orphans upon the job-related death of a public safety officer cannot be reduced without voter approval.

Increases in retirement benefits and pre-retirement death benefits for public safety employees would still be subject to voter approval, as proposed in the RSA initiative.

Proposed Ordinance No. 899 requires the County to meet and confer with public safety representative groups if required by the Myers Milias Brown Act (Government Code section 3505 et seq.). Additionally, no reduction in retirement benefits or death benefits may be taken which would constitute an unconstitutional impairment of contract.

The Board further requested that the proposed ordinance be submitted to the voters in accordance with Elections Code section 9140 and that it be returned to the Board in time for inclusion on the November general election ballot.

Elections Code section 9162 permits the Board of Supervisors or any authorized members of the Board to file an written argument for or against a ballot measure. Should the Board desire to authorize a member or members of the Board to prepare an argument in favor of proposed Ordinance No. 889 and any rebuttal, or to prepare a written opposition argument to the proposed RSA initiative, they should do so in conjunction with the approval of Ordinance No. 900.

1 ORDINANCE NO. 900

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3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE
4 PROPOSING RIVERSIDE COUNTY ORDINANCE NO. 899
5 FOR ADOPTION BY THE VOTERS AT THE STATEWIDE
6 GENERAL ELECTION ON NOVEMBER 2, 2010
7

8 The Board of Supervisors of the County of Riverside ordains as follows:

9 Section 1. In accordance with Elections Code section 9140, the Board of Supervisors
10 may submit to the voters an ordinance for the enactment of any ordinance. The ordinance shall be voted
11 upon at any succeeding regular or special election and, if it receives a majority of the votes cast, the
12 ordinance shall be enacted accordingly.

13 Section 2. The Board of Supervisors has determined that Proposed Ordinance No. 899
14 would be in the best interests of the County of Riverside.

15 Section 3. Proposed Ordinance No. 899, attached hereto and incorporated herein, shall
16 be submitted for adoption to the qualified voters of the County of Riverside at the statewide general
17 election on November 2, 2010.

18 Section 4. Pursuant to Elections Code section 13119, the form of the measure shall
19 appear on the ballot as follows:

20

PROPOSED RIVERSIDE COUNTY ORDINANCE		
Shall Ordinance No. 899, the Taxpayer Protection and Fiscal Responsibility Act, prohibiting increases in and allowing decreases in public safety pensions without voter approval, be adopted?	YES	
	NO	

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1 Section 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon its
2 adoption in accordance with Elections Code section 9141(a)(1).

3 BOARD OF SUPERVISORS OF THE COUNTY
4 OF RIVERSIDE, STATE OF CALIFORNIA

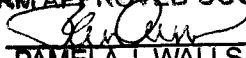
5 By: _____
6 Chairman

7 ATTEST:

8 CLERK OF THE BOARD:

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10 By: _____
11 Deputy

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13 (SEAL)

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17 FORM APPROVED COUNTY COUNSEL
18 BY:  7/8/10
 PAMELA J. WALLS DATE

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26 PJW:ay
27 07/08/10
28 G:\Property\06-ORDINANCE\899 RSA Initiative\Ord 900.doc

1 PROPOSED ORDINANCE NO. 899

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3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROHIBITING
4 INCREASES IN AND ALLOWING DECREASES IN PUBLIC
5 SAFETY PENSIONS WITHOUT VOTER APPROVAL
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7 The people of the County of Riverside ordains as follows:

8 Section 1. TITLE. This ordinance shall be known as the Taxpayer Protection and
9 Fiscal Responsibility Act of 2010.

10 Section 2. FINDINGS.

- 11 a. Given current budgetary constraints, taxpayers should be protected against
12 increases in retirement and death benefits provided to public safety
13 employees without voter approval.
- 14 b. Widows and orphans of public safety employees whose death has been
15 determined to be job related, however, shall be protected and benefits paid
16 to such beneficiaries upon the death of the public safety employee shall not
17 be reduced without voter approval.
- 18 c. Given the County's fiscal crisis, retirement benefits for future public safety
19 employees may need to be reduced. It is the intent that the Board of
20 Supervisors continue to retain the discretion to reduce retirement benefits to
21 the extent permitted by law.
- 22 d. Existing public safety employees have a right to receive certain retirement
23 benefits that were promised them upon employment. This ordinance does
24 not allow the reduction of retirement benefits or death benefits which would
25 constitute an unlawful impairment of contract in violation of Article 1,
26 Section 10 of the United States Constitution or Article 1, Section 9 of the
27 Constitution of the State of California.

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1 Section 3. PURPOSE. The purpose of this ordinance is to prohibit increases in public
2 safety employee retirement and death benefits without voter approval and to clarify that the Board of
3 Supervisors retains the discretion to decrease public safety employee retirement and death benefits, to the
4 extent permitted by law, without voter approval.

5 Section 4. DEFINITIONS.

- 6 a. Death Benefits. Pre-retirement death benefits offered to public safety
7 employees and their survivors as of the effective date of this measure.
- 8 b. Public Safety Employees. Employees who are defined as safety employees
9 under the California Public Employee Retirement System ("CalPERS") or
10 any successor retirement system.
- 11 c. Retirement Benefits. Retirement benefits offered to public safety
12 employees and their survivors as of the effective date of this measure, and
13 includes service retirement, disability retirement, industrial disability
14 retirement, survivor continuance, and retiree health benefit.
- 15 d. Retirement Benefit Formula. The retirement benefit formula currently in
16 place for public safety employees, which is known as "3% @ 50," and
17 includes the current limitation on these benefits of 90% of final
18 compensation.
- 19 e. Retirement System. The CalPERS or any successor retirement system.

20 Section 5. LIMITATIONS ON CHANGES TO RETIREMENT AND DEATH
21 BENEFITS.

- 22 a. The Board of Supervisors shall not take any action, by ordinance,
23 resolution, or otherwise, which increases the retirement benefit formula of,
24 or increases death benefits to the beneficiaries of, any past, current or future
25 public safety employee of Riverside County in the retirement system,
26 without first obtaining the approval of a majority of those qualified electors
27 voting on the matter. This subdivision shall not apply to cost of living
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1 adjustments, salary increases and annual leave or compensatory time cash
2 outs.

3 b. The Board of Supervisors hereby retains the discretion to decrease the
4 retirement benefit formula of, or decrease death benefits to the beneficiaries
5 of, any past, current or future public safety employee of Riverside County
6 in the retirement system without first obtaining the approval of a majority of
7 those qualified electors voting on the matter. This subdivision shall not
8 apply to pre-retirement benefits paid to the beneficiaries of a public safety
9 employee whose death has been determined to be job-related. A reduction
10 of such benefits for those beneficiaries of public safety employees whose
11 death has been determined to be job-related shall not be made without first
12 obtaining the approval of a majority of those qualified electors voting on the
13 matter.

14 c. Before submitting any increase in the retirement benefit formula or death
15 benefits to a vote of the electorate, or decreasing the retirement formula or
16 death benefits, the County shall meet and confer with public safety
17 employee representative groups if required by the Myers Milias Brown Act
18 (Government Code section 3505 et seq.).

19 d. No reduction in retirement benefits or death benefits shall be taken which
20 would constitute an unlawful impairment of contract in violation of Article
21 1, Section 10 of the United States Constitution, as well as Article 1, Section
22 9 of the Constitution of the State of California. If CalPERS ceases to offer
23 the 3% at 50 benefit formula or if Riverside County ceases to contract with
24 CalPERS for retirement and death benefits, the County shall not be required
25 to offer the same retirement benefit formula and pre-retirement death
26 benefits to public safety employees unless the failure to do so would
27 constitute an unlawful impairment of contract under the federal or state
28 constitutions or violate federal or state law.

1 Section 6. AMENDMENTS. This ordinance shall not be modified, amended or
2 repealed, except by a majority vote of those qualified electors voting on the measure.

3 Section 7. CONFLICTS AND COMPETING MEASURES.

4 a. In the event this ordinance conflicts with the terms of any other ordinance,
5 resolution or policy of the County, this ordinance shall control.

6 b. In the event that another measure (“competing measure”) appears on the
7 same ballot as this ordinance which seeks to adopt or impose provisions that
8 differ in any regard to, or supplement, the provisions or requirements
9 contained in this ordinance, the voters hereby expressly declare their intent
10 that if both the competing measure and this ordinance receive a majority of
11 votes cast, and if this ordinance receives a greater number of votes than the
12 competing measure, this ordinance shall prevail in its entirety over the
13 competing measure without regard to whether specific provisions of each
14 measure directly conflict with each other.

15 Section 8. SEVERABILITY. If any provision or portion of this ordinance is, for any
16 reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall
17 not affect the validity of the remaining portions of the ordinance. It is hereby declared that the ordinance
18 and each and every provision and portion thereof would have been adopted irrespective of the fact that
19 any one or more provisions or portions thereof be declared invalid or unconstitutional.

20 Section 9. EFFECTIVE DATE. Pursuant to section 9122 of the Elections Code, this
21 ordinance shall take effect ten days after the vote is declared by the Board of Supervisors.