

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

897



FROM: Human Resources Department

SUBMITTAL DATE:
August 31, 2011

SUBJECT: Adopt Resolution No. 2011-246, Delegation of Authority for Local Safety Member Disability Retirement and Reinstatement Determination

RECOMMENDED MOTION: That the Board of Supervisors adopt Resolution 2011-246, which will supersede Resolution 74-108.

Departmental Concurrence

BACKGROUND: Resolution 2011-246 is needed to 1) reflect the current/applicable Government Code Section 21173 because the Section referenced in the 1974 Resolution on Delegation of Authority, Section 21023.6 was renumbered in 1995 to Section 21173; 2) update the delegated authority to the Human Resources Director, as the previous Resolution delegated authority to the position as Personnel Director, and the title has since been revised; and 3) to state the County's position of its right to consult with medical and/or occupational experts in order to render a determination of substantial incapacity for local safety members and whether that incapacity is industrial under the meaning of the law.

Barbara A. Olivier
Asst. County Executive Officer/Human Resources Dir.

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

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

- Consent
- Policy
- Consent
- Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Benoit and Ashley
Nays: None
Absent: Stone
Date: September 13, 2011
xc: HR

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

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

3.66

RESOLUTION NO. 2011-246
A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF RIVERSIDE
DELEGATING AUTHORITY FOR LOCAL SAFETY MEMBER
DISABILITY RETIREMENT AND REINSTATEMENT DETERMINATIONS

WHEREAS, the County of Riverside is a contracting agency of the Public Employees' Retirement System;

WHEREAS, the Public Employees' Retirement Law required that a contracting agency determine whether an employee of such agency in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law;

WHEREAS, the Board of Supervisors of the County of Riverside has determined upon legal advice that it may delegate authority to make such determinations to "a subordinate officer subject to conditions it may impose",

BE IT RESOLVED by the Board of Supervisors of the County of Riverside, State of California, in regular session assembled on 9/13/11 that said Board of Supervisors does hereby delegate to the incumbent of the position of Human Resources Director, who may, at his/her option, consult with medical and/or occupational experts, the authority to make determinations under Government Code Section §21173, on behalf of the County of Riverside, of disability and whether such disability is industrial and to certify such determinations and all other necessary information to the Public Employees' Retirement System;

BE IT FURTHER RESOLVED that the incumbent of the position of Human Resources Director be authorized to make determinations on behalf of the County of Riverside for disability retirement of employees classified as local safety members and to initiate requests for reinstatement of local safety members previously retired for disability; and

BE IT FURTHER RESOLVED that the incumbent of the position of Human Resources Director be authorized to make determinations on behalf of the County of Riverside for disability retirement of employees classified as local safety members and to initiate requests for reinstatement of local safety members previously retired for disability; and

BE IT FURTHER RESOLVED that this Resolution hereby supersedes Resolution No. 74-108.

ROLL CALL:

Ayes: Buster, Tavaglione, Benoit, and Ashley
Nays: None
Absent: Stone

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-IHEM, Clerk of said Board

By: _____
Deputy

RESOLUTION NO. 2011-246
A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF RIVERSIDE
DELEGATING AUTHORITY FOR LOCAL SAFETY MEMBER
DISABILITY RETIREMENT AND REINSTATEMENT DETERMINATIONS

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WHEREAS, the Board of Supervisors of the County of Riverside has determined upon legal advice that it may delegate authority to make such determinations to "a subordinate officer subject to conditions it may impose",

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BE IT FURTHER RESOLVED that the incumbent of the position of Human Resources Director be authorized to make determinations on behalf of the County of Riverside for disability retirement of employees classified as local safety members and to initiate requests for reinstatement of local safety members previously retired for disability; and

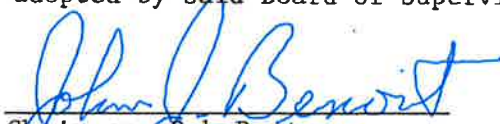
BE IT FURTHER RESOLVED that the incumbent of the position of Human Resources Director be authorized to make determinations on behalf of the County of Riverside for disability retirement of employees classified as local safety members and to initiate requests for reinstatement of local safety members previously retired for disability; and

BE IT FURTHER RESOLVED that this Resolution hereby supersedes Resolution No. 74-108.

ROLL CALL:

Ayes: Buster, Tavaglione, Benoit, and Ashley
Nays: None
Absent: Stone

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.


Chairman, ~~Bob Buster~~
JOHN J. BENOIT

KECIA HARPER-IHEM, Clerk of said Board

By: 
Deputy

RESOLUTION NO. 2011-246
A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF RIVERSIDE
DELEGATING AUTHORITY FOR LOCAL SAFETY MEMBER
DISABILITY RETIREMENT AND REINSTATEMENT DETERMINATIONS

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WHEREAS, the County of Riverside is a contracting agency of the Public Employees' Retirement System;

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WHEREAS, the Public Employees' Retirement Law required that a contracting agency determine whether an employee of such agency in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law;

WHEREAS, the Board of Supervisors of the County of Riverside has determined upon legal advice that it may delegate authority to make such determinations to "a subordinate officer subject to conditions it may impose";

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BE IT RESOLVED by the Board of Supervisors of the County of Riverside, State of California, in regular session assembled on _____, that said Board of Supervisors does hereby delegate to the incumbent of the position of Human Resources Director, who may, at his/her option, consult with medical and/or occupational experts, the authority to make determinations under Government Code Section §21173, on behalf of the County of Riverside, of disability and whether such disability is industrial and to certify such determinations and all other necessary information to the Public Employees' Retirement System;

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BE IT FURTHER RESOLVED that the incumbent of the position of Human Resources Director be authorized to make determinations on behalf of the County of Riverside for disability retirement of employees classified as local safety members and to initiate requests for reinstatement of local safety members previously retired for disability; and

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BE IT FURTHER RESOLVED that the incumbent of the position of Human Resources Director be authorized to make determinations on behalf of the County of Riverside for disability retirement of employees classified as local safety members and to initiate requests for reinstatement of local safety members previously retired for disability; and

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BE IT FURTHER RESOLVED that this Resolution hereby supersedes Resolution No. 74-108.

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ATTEST:

Kecia Harper-Ihem
Clerk of the Board

Chairman, Board of Supervisors
County of Riverside

Deleted: Donald D. Sullivan, Clerk

By: _____
Deputy

By: _____

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RESOLUTION NO. 74-108
OF BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE
DELEGATING AUTHORITY FOR DISABILITY DETERMINATIONS

(Section 21023.6, Government Code)

WHEREAS, the County of Riverside, hereinafter referred to as Agency, is a contracting agency of the Public Employees' Retirement System;

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such Law;

WHEREAS, the Board of Supervisors of said County has determined upon legal advice that it may delegate authority to make such determinations to the incumbent of the position of Personnel Director of said County; now, therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Riverside, State of California, in regular session assembled on MAR 19 1974 that said Board of Supervisors does hereby delegate to the incumbent of the position of Personnel Director of said County the authority to make determinations under Section 21023.6, Government Code, on behalf of the Agency, of disability and whether such disability is industrial and to certify such determinations and all other necessary information to the Public Employees' Retirement System; and,

BE IT FURTHER RESOLVED that such incumbent be and he is authorized to make applications on behalf of the Agency for disability retirement of employees in employments in which they are local safety members and to initiate requests for reinstatement of such employees who are retired for disability.

ATTEST:

DONALD D. SULLIVAN, Clerk

By [Signature]
Deputy

(Seal)

[Signature]
Chairman, Board of Supervisors
County of Riverside

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

[Signature] Clerk of said Board
[Signature] Deputy

RTS:elr
74

Barton, Karen

From: Young, Alisa <AYOUNG@co.riverside.ca.us>
Sent: Thursday, June 16, 2016 8:15 AM
To: Barton, Karen; Harper-Ihem, Kecia
Subject: FW: BOS Signature for Resolutions 2011-245 and 2011-246

Please see Greg's response below.

From: Priamos, Greg
Sent: Thursday, June 16, 2016 7:26 AM
To: Willis, Anita; Gu, Gregg M.
Cc: Young, Alisa
Subject: RE: BOS Signature for Resolutions 2011-245 and 2011-246

I agree with Anita. Chairman Benoit can sign and bind the County.

Gregory P. Priamos
County Counsel
County of Riverside
gpriamos@co.riverside.ca.us
951.955.6300



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From: Willis, Anita
Sent: Wednesday, June 15, 2016 4:29 PM
To: Gu, Gregg M.
Cc: Young, Alisa; Priamos, Greg
Subject: Re: BOS Signature for Resolutions 2011-245 and 2011-246

I would think the current chairman to sign. Supervisor Benoit was on the Board at the time and he is currently authorized to sign resolutions.

Sent from my iPhone

On Jun 15, 2016, at 4:18 PM, Gu, Gregg M. <GGu@co.riverside.ca.us> wrote:

PERS won't honor the resolutions authorizing distributions to retirees because the resolutions don't conform to GC sec. 25103. According to section 25103, the "'records' and minutes of the board, acting in any capacity, shall be signed by the chairperson and the clerk." The annotated cases specifically address failure to sign minutes so they don't provide much guidance in the current situation.

If the statute calls for such 'records' to be signed by the chairman and the clerk, the County should comply. However, I believe there may be a problem with attempting to have Mr. Buster sign the resolutions since he is retired and no longer has the authority to bind the County. I would think that the current Chairman would have the authority to sign the amended reso (along with the clerk of the board) such that it complies with the statute.

I would suggest waiting for Anita and/or Greg to voice their opinions unless the clerk absolutely needs an answer.

Thanks,
Gregg

From: Young, Alisa
Sent: Wednesday, June 15, 2016 3:02 PM
To: Gu, Gregg M.
Cc: Priamos, Greg; Willis, Anita
Subject: FW: BOS Signature for Resolutions 2011-245 and 2011-246

Gregg: see attached email string, which cites the Govt. Code section CalPERS is referring to. Let me know if I can help in any way.

Alisa

From: Barton, Karen
Sent: Wednesday, June 15, 2016 3:01 PM
To: Young, Alisa
Subject: FW: BOS Signature for Resolutions 2011-245 and 2011-246

Hi Alisa,

Per our conversation HR is asking for the Chairman's signature to be on the actual resolutions. The Chairman in 2011 was Supervisor Bob Buster.

Best Wishes,

Karen Lynn Barton

Karen L Barton

Board Assistant
Riverside County Clerk of the Board of Supervisors
(951) 955-1047

From: Cooper, Jennifer
Sent: Monday, June 13, 2016 3:58 PM
To: Harper-Ihem, Kecia
Subject: BOS Signature for Resolutions 2011-245 and 2011-246

Hi Kecia,

I am not sure if you remember me but we worked on some board items many years ago. Mike Stock asked that I look to you for guidance to an issue that has just come up.

County of Riverside Resolution's 2011-245 and 2011-246 have been in effect since October 2011 and December 2011, respectively. Recently, Human Resources has been contacted by CalPERS and advised that PERS can no longer honor the authority of the Resolutions because they have not been signed by the Chairman of the Board of Supervisors. I realize that the BOS adopted the resolutions, but this is, according to PERS, not in accordance to Government Code §25103. I have attached certified copies of both of the resolutions for your convenience. I am hoping that we can resolve this matter by having the former (2011) Chairman sign the original Form 11's so that I can re-issue the amended resolutions to CalPERS. The amendment would obviously not change the language or the intent of Resolution 2011-245 or Resolution 2011-246. This is a critical matter as PERS has ceased processing disability retirements for the County until we resolve the matter. Mike Stock would be available, if needed, to speak to the Board regarding this matter.

If I could have your advice on the most appropriate way to accomplish this I would appreciate it. I can be reached at the contact info below.

Jennifer Cooper / Principal Analyst / Human Resources
Desk:951-955-5568 / Fax:951-955-9376 / jcooper@rc-hr.com

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