



MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors
FROM: Thomas M. Miller, County Executive Officer
Nancy Nittler, Personnel Director
DATE: May 24, 2011
SUBJECT: Sick Leave Use at Retirement and Vacation and Administrative Leave Changes

ACTION REQUESTED

It is recommended that your Board take the following actions:

1. Approve the attached Side Letter of Agreement with the Placer Public Employees Organization (PPEO) and authorize the Chairman of the Board to sign seven originals.
2. Introduction of an ordinance adjusting the compensation and benefits of PPEO General and Professional Unit employees, management, safety management, elected officials, confidential and unclassified (non-management) employees.

BACKGROUND

Upon retirement Placer Public Employee Organization (PPEO), management, confidential, elected official or unclassified (non-management) employees have the option to convert their unused sick leave balances to CalPERS Service Credit, set the value aside for retiree medical benefits, or choose a combination of these two options. The current formulation of the use of sick leave benefit at retirement, whereby an employee has a choice between cash, nontaxable benefits (i.e. retiree medical benefits) and/or tax-deferred benefits (i.e. CalPERS service credit), raises unanticipated tax consequences for both employee and employer.

The Placer Public Employees Organization (PPEO)

Sick Leave Use at Retirement

PPEO represents approximately 1,800 employees in the General and Professional Units. Placer County and PPEO representatives have been in negotiations regarding the potential tax consequences of the use of sick leave at retirement. To address the IRS tax issue, on May 4, 2011 an election was held and PPEO represented employees voted to effectively create an irrevocable election for the use of sick leave hours at retirement for the bargaining group. As

a result, effective July 2, 2011 the individual PPEO employee will no longer have a choice regarding how to use their unused sick leave balance at retirement. Instead all PPEO represented employees will automatically have the first 1,500 hours of sick leave set aside for retiree medical benefits and any hours in excess of 1,500 contributed to CalPERS Service Credit.

The attached Side Letter of Agreement for Sick Leave Use at Retirement documents this benefit change which creates a substantial restriction on the employee's right to control when he or she receives income so that the benefit is not taxable.

Vacation Accrual Cash Out / Deputy District Attorney & Child Support Attorney Leave

County employees in the General and Professional Unit who have a vacation accrual of 300 hours or more may request to cash out 40 hours at the base hourly rate once per fiscal year. In addition, employees designated as deputy district attorneys or child support attorneys receive a total of seventy-two (72) hours of administrative leave at the beginning of each fiscal year. Usage of administrative leave for paid leave are subject to the same limitations as the use of vacation leave, except that no minimum period of employment shall be required before administrative leave may be so utilized or cash payment requested by the end of each fiscal year. All administrative leave shall be taken as paid time off or paid in cash by the last day of the last full pay period of each fiscal year. Since the cash out provisions cross calendar years there is a potential constructive receipt issue, both the vacation accrual and administrative leave cash outs have IRS tax consequences that PPEO and the County have agreed to address during contract negotiations that will begin next month.

Designated Management and Confidential Employees

Sick Leave Use at Retirement

The Placer County workforce includes managers (including technical and non-supervisory staff) and confidential employees. For several months, the County Executive Officer and members of the Management and Confidential Teams have also met to discuss the tax consequences of sick leave use at retirement. Given that members of the Management and Confidential Teams might have had different preferences as to how to account for these benefits for their team members in the future, "Team" meetings were held individually. Each "Team" had a number of opportunities to discuss the issue and alternatives to resolve the tax issue, and vote for their preferred method to utilize sick leave balance at retirement.

Based upon the results of these independent ballots, both the Management and the Confidential Teams ultimately requested that 100% of their unused sick leave hours be set aside for future retiree medical premiums at retirement. Further, both Teams strongly endorsed having these dollars contributed to a Health Reimbursement Account (HRA) by the County in lieu of the current benefit structure. In support of the HRA, management and confidential employees agree that all costs related to administration of these HRA accounts would be borne by the retiree.

The County Executive Office, Personnel Department and County Counsel staffs have worked diligently over the last few months researching options for implementation of a Placer County Health Reimbursement Account that could begin with the start of the new fiscal year. However, in order to ensure that the HRA Plan would be in full compliance with Federal and State laws, it has been determined that additional time and research is needed. As a result, this benefit change will need to be implemented in two phases:

PHASE 1: Address IRS Tax Consequences

Effective July 2, 2011, at retirement, the dollar value of management and confidential sick leave balances (base rate plus confidential and/or longevity pay if applicable, multiplied by the number of unused sick leave hours) will be set aside for the retiree's CalPERS retiree group health insurance premiums. By creating substantial restrictions on the employee's right to control when he or she receives income, constructive receipt issue no longer exists and the benefit is not taxable.

PHASE 2: Health Reimbursement Account

In keeping with Placer County Procurement Rules, solicit proposals and enter into an agreement for a Placer County Health Reimbursement Account that could be implemented on or around January 1, 2012. HRA Plan details will be forthcoming at a subsequent Board Meeting.

Vacation Accrual Cash Out / Management Leave

Current provisions allow that once per fiscal year, management and confidential employees may request to cash out up to one-half of his or her annual vacation accrual. In addition, managers receive seventy-two (72) or more hours of management leave credited to them at the beginning of each fiscal year that can be cashed out over that fiscal cycle. Again, since these cash out provisions cross calendar years there are potential constructive receipt tax implications. The attached ordinance addresses the necessary change to mitigate these issues by shifting vacation and management leave benefits to calendar year cycles, requiring an irrevocable election for vacation cash out in the previous year, and allowing cash out only of vacation hours that were accrued during that calendar year.

FISCAL IMPACT

Board approval of the PPEO Side Letter of Agreement and benefit restrictions for management and confidential employees related to sick leave use at retirement, vacation accrual cash out and management leave benefits will not increase or change the County's liability related to these current benefits. Instead the changes are only meant to address possible future tax consequences to our employees and/or the County.

Attachments:

1. Sick Leave Use at Retirement Side Letter of Agreement (PPEO)
2. Ordinance

Attachment #1

**SIDE LETTER OF AGREEMENT
PLACER PUBLIC EMPLOYEES' ORGANIZATION (PPEO)
SICK LEAVE USE AT RETIREMENT**

This Side Letter of Agreement is entered into between the County of Placer and the PPEO ("Parties") as a result of meeting and conferring. The parties mutually agree to the provisions contained herein which will become effective upon the dates indicated.

Effective July 2, 2011, any PPEO general or professional unit employee covered by the CalPERS miscellaneous retirement plan, retiring from county service and eligible to receive California Employees' Retirement System (CalPERS) benefits at the time of such retirement, shall receive the following:

- One month of paid group insurance premium reimbursement for each day (8 hours) of unused accrued sick leave up to a maximum of 1,500 hours. If the retiree's base hourly rate times eight exceeds the retiree's share of the cost of one month of retiree's health insurance, then the actual dollar value of the retiree's hourly rate will be applied to the premium reimbursement. This benefit does not apply to: 1) any other County sponsored plans, such as but not limited to, the supplemental life, vision, or dental programs.
- Any unused accrued sick leave hours over 1,500 will be applied to CalPERS service credit pursuant to Government Code Section 20965.

These provisions are not available to PPEO employees covered by the CalPERS safety retirement plan.

Signatures:

Placer Public Employees Organization:

County of Placer:

Jerry Kalmar, Business Manager
Stationary Engineers, Local 39

Robert Weygandt, Chairman
Placer County Board of Supervisors

Madison Bland, President
Stationary Engineers, Local 39

Thomas Miller, County Executive Officer

Chuck Thiel, Business Representative
Stationary Engineers, Local 39

Nancy Nittler, Personnel Director

James Britton, Business Representative
Stationary Engineers, Local 39

Adopted by the Placer County Board of
Supervisors

Joan Bryant, Director of Public Employees
Stationary Engineers, Local 39

Clark Gehlbach, PPEO President

Jim Tygrett, PPEO Vice President

Attachment #2

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of: **AN ORDINANCE AMENDING
SECTIONS OF CHAPTER 3 OF THE PLACER
COUNTY CODE; 3.04.420, 3.04.490 and 3.04.520**

Ordinance No: _____

First Reading: _____

The following **Ordinance** was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Robert Weygandt
Chairman, Board of Supervisors

Attest:
Clerk of said Board

Ann Holman

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA,
DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: That Section 3.04.420 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:

3.04.420 Termination of employment.

I. Effective July 2, 2011 any employee in the PPEO General Unit, Professional Unit, Management, Confidential and or Unclassified (Nonmanagement) Employees. Except as group otherwise provided in this section, any PPEO general, professional, management, confidential or unclassified (nonmanagement) employee retiring from county service and eligible to receive

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California Employees' Retirement System (CalPERS) miscellaneous plan benefits at the time of such retirement shall receive the following:~~may select one or more of the following options;~~ however, ~~the selection must be made prior to retiring from county service and once the selection is made it is irrevocable:~~

1. One month of paid CalPERS group health insurance premium reimbursement for each day (8 hours) of the employee's unused accrued sick leave up to a maximum of 1,500 hours. If the retiree's base hourly rate times eight exceeds the retiree's share of the cost of one month of retiree's health insurance premium, then the actual dollar value of the retiree's hourly rate will be applied to the premium reimbursement. This benefit does not apply to any other County sponsored plans, such as but not limited to, the life, vision, or dental programs. The base hourly rate is defined as the hourly rate from the salary schedule plus longevity if applicable; and,
2. Unused accrued sick leave in excess of 1,500 hours will be applied to CalPERS service credit only pursuant to Government Code Section 20965.

~~1. Effective December 26, 2003 at 5:01 p.m., employees covered by the CalPERS miscellaneous retirement plan may convert accumulated unused sick leave to CalPERS service credit pursuant to Government Code Section 20965.~~

J. Effective July 2, 2011 for management employees, excluding safety management, or confidential employees retiring from county service and eligible to receive CalPERS miscellaneous plan benefits at the time of retirement, he/she shall receive reimbursement for the CalPERS retiree group health insurance premium based upon the value of the unused sick leave at retirement. The value will be determined by the number of unused sick leave hours available paid at the employee's base hourly rate on the salary schedule, plus confidential pay and/or longevity pay if applicable. This benefit does not apply to any other County sponsored plans, such as but not limited to, the life, vision, or dental programs.

K. Effective July 2, 2011, for elected officials, excluding Elected Safety, retiring from county service and eligible to receive California Employees' Retirement System (CalPERS) benefits at the time of retirement shall receive:

~~2. If requested by the retiree, one month of paid group insurance will be provided for each day of unused accrued sick leave. This does not apply to the supplemental life, vision, or dental programs. However, if the retiree's base hourly rate times eight exceeds the retiree's share of the cost of one month of retiree's health insurance, then the actual dollar value of the retiree's hourly rate will be applied to purchase retiree's health insurance.~~

~~3.1. For elected officials, if requested by the retiree, One month of paid CalPERS group health insurance for each two months of elected service. This does not apply to fifty thousand dollars (\$50,000.00) management life, vision or dental programs. This benefit does not apply to any other County sponsored plans, such as but not limited to, the life, vision, or dental programs; and if applicable~~

2.—4.—Any employee elected or appointed to an elective office, who has a current sick leave balance in excess of one hundred ninety-two (192) hours at the date he or she assumes elective office, shall not lose their his/her accrued sick leave hours. At the date he or she assumes elective office such hours shall be placed in inactive status, without further accrual, until such time as the employee leaves elective office and is eligible to receive early-retirement benefits under subsections (I) or (J) of this section. If the employee leaves elective office prior to becoming eligible to receive early-retirement benefits under subsection (I) or (J) of this section, the eligible sick leave shall be paid in accordance with subsection C of this section, and the sick leave hours shall be compensated at the current rate of the last classification held prior to assuming elective office. If said classification ~~is no longer existent~~ exists, then compensation will be paid at the last established salary rate for that classification.

L.—J. Deputy Sheriffs' Association Employees. ...

M.—K. Safety Management Employees and Elected Safety Management. ...

N.—L. PPEO Correctional Officers and Correctional Sergeants. ...

O.—M. PPEO Probation Officers I/II/Senior/Supervising. ...

Section 2: That Section 3.04.490 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:

3.04.490 When to be taken.

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E. Management, Safety Management and Confidential Employee Vacation Cash Out. Beginning with the 2012 calendar year. Once per fiscal year, any employee may request once per calendar year to cash out up to one-half of his or her annual vacation accrual in the following year at his or her base hourly rate which shall be defined as the hourly rate on the salary schedule plus any confidential pay, additional pays that are percentage based, and/or longevity pay if applicable. Any employee utilizing this provision will be required to submit an irrevocable election by December 31st of the calendar year prior to the calendar year in which the vacation hours to be cashed out are earned. The cash out will coincide with the applicable IRS tax year based upon the check dates. The actual payment of the requested hours cannot occur until the hours to be cashed out for that calendar year have accrued (for regular full-time employees one-half of the annual vacation accrual is earned after 1040 paid hours). Cash outs for hours accrued in prior years are not allowed.

1. Requested vacation cash outs will be cashed out by the last pay check of the calendar year in which the vacation hours are earned.

(Ord. 5627-B § 4, 2010; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5443-B, 2007; 5442-B, 2007; prior code § 14.420)

Section 3: That Section 3.04.520 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:

3.04.520 Administrative leave Management/District Attorney and Child Support Attorney Leave.

- A. Department heads shall receive eighty (80) hours of management leave each calendar year coinciding with the applicable IRS tax year based upon pay check dates.
- B. Management and safety management employees shall receive seventy-two (72) hours of management leave each calendar year coinciding with the applicable IRS tax year based upon pay check dates..
- C. Management employees are eligible to receive additional hours if four percent (4%) of the employee's annual salary exceeds one thousand five hundred dollars (\$1,500). The amount of additional hours will be determined by subtracting \$1,500 from the 4% amount and dividing the difference by the hourly wage in effect on January 1st of the new calendar year. The annual salary used for this calculation will be the employee's hourly rate on the salary schedule plus longevity if applicable.
- D. Although management leave hours are credited to the employee at the beginning of the calendar year, these hours are considered to be earned on a pro rata basis over the course of the calendar year each pay date.
- E. Employees appointed to eligible positions after the beginning of the calendar year will receive management leave hours on a prorated basis for the pay dates remaining in that calendar year.
- F. Employees may elect to utilize their management leave hours on payroll as paid leave and/or may receive cash payment for such management leave hours.
 - 1. Use of management leave hours for paid leave shall be subject to the same limitations as the use of vacation leave; useable in ½ hour increments, except that no minimum period of employment shall be required before management leave hours may be so utilized.

2. Cash payment for such management leave hours will be at the employee's hourly rate from the salary schedule, including additional pays that are percentage based and longevity if applicable.
3. All management leave hours shall be taken as paid time off or paid in cash by the last pay check of the calendar year in which the management leave hours are earned.

G. Employees separating from county employment, or vacating an eligible position, will receive a prorated amount of management leave hours based upon the number of pay dates completed within that calendar year.

1. Employees who have utilized or cashed out more management leave hours than earned prior to separation from the county, or a position change, are obligated to repay the County for those unearned hours utilized or cashed out.

H. Notwithstanding the above, for the period beginning July 1, 2011 through December 16, 2011, pay period 14, employees shall have the value of one-half (1/2) of the annual management leave accrual credited to their leave balance. This calculation shall be made in the same manner as outlined in subsections (A) through (C) of this section, except it shall be based on the salary in effect on July 1, 2011.

1. Management leave hours not utilized or cashed-out prior to pay period 14 will be cashed-out on the last pay date of the 2011 calendar, December 30, 2011.

I. 5. Deputy District Attorney/Child Support Attorney Administrative-Leave.

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~~A. All employees designated as management and employed by the county on October 11, 1990, except department heads and members of the board of supervisors, shall receive an additional eight hours administrative leave to their credit and thereafter shall have seventy-two (72) hours credited to them at the beginning of each fiscal year. Effective October 11, 1990, for department heads, and effective November 10, 1990 for members of the board of supervisors, each department head and member of the board of supervisors shall receive an additional eight hours of administrative leave to their credit, and thereafter shall have eighty (80) hours credited to them at the beginning of each fiscal year. Persons appointed to designated management positions after the start of a fiscal year will receive administrative leave prorated for the pay periods remaining in that fiscal year.~~

~~B. Those employees whose four percent of salary exceeds one thousand five hundred dollars (\$1,500.00), which is the average four percent for management team members,~~

~~shall be credited with administrative leave based upon the difference divided by the hourly wage in effect July 1st each fiscal year.~~

- ~~1. Persons appointed to designated management positions after the start of a fiscal year will receive the administrative leave on a prorated basis for the pay periods remaining in that fiscal year.~~
- ~~2. Employees terminating county employment, or who are removed from the management team designation, will receive a prorated amount of administrative leave based upon the number of pay periods completed that fiscal year. Employees who have utilized all their administrative leave and then terminate their employment, or are removed from the management team, will have a prorated amount deducted from their final pay warrant. Such employees may elect to utilize any administrative leave to their credit for paid leave or may receive cash payment for such administrative leave at their regular hourly rate. Usage of administrative leave for paid leave shall be subject to the same limitations as the use of vacation leave, except that no minimum period of employment shall be required before administrative leave may be so utilized or cash payment requested by the end of each fiscal year. All administrative leave shall be taken as paid time off or paid in cash by the last day of the last full pay period of each fiscal year.~~
- ~~3. Employees terminating county employment, or who are removed from the management team designation, will receive a prorated amount of administrative leave, also based on the number of pay periods completed during that fiscal year. Employees who have utilized all of their administrative leave and then terminate their employment, or are removed from the management team, will have a prorated amount deducted from their final pay warrant.~~
- ~~4. Elected Officials. Notwithstanding the provisions of subsection A of this section, an elected official in the administrative or legislative branch of county government who does not receive an automobile allowance under Sec. 2.45 of the administrative rules, in lieu of mileage, may elect to receive, commencing November 10, 1990, for members of the board of supervisors, and commencing October 11, 1990 for all other elected officials, the eighty (80) hours provided for in subsection A of this section, plus additional hours computed by dividing the current automobile allowance by the elected official's salary computed on an hourly basis with an eighty (80) hour biweekly pay period as the standard (the base hourly rate) using the salary in effect on July 1st of each fiscal year. The total administrative leave hours shall be credited to the elected official at the beginning of each fiscal year. Such election of choice shall be filed by the elected official with the personnel department not later than June 1st of each calendar year for the next following fiscal year commencing July 1st immediately following.~~

