



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: November 15, 2011
SUBJECT: **Adoption of an Ordinance for Holiday Credit Accounts, Vacation Accrual Cash Out, Overtime Compensation and District Attorney / Child Support Attorney Leave for PPEO Represented and Confidential Employees**

ACTION REQUESTED

It is recommended that your Board adopt an ordinance to adjust compensation and benefits of Placer Public Employee Organization (PPEO) represented and Confidential employees related to Holiday Credit Accounts, Vacation Accrual Cash Out, Overtime Compensation and District Attorney / Child Support Attorney Leave.

BACKGROUND

Business practices related to the implementation of vacation accrual cash out, Holiday Credit Accounts, District Attorney / Child Support Attorney Leave and overtime compensation were thought to raise unanticipated tax consequences for both the employee and employer. PPEO and County representatives held negotiations to discuss changes to business practices which would mitigate any possible tax issues, and on November 8, 2011 your Board approved side letters of agreement with PPEO to implement these changes.

Holiday Credit Account

Employees earn holiday hours when a holiday occurs on the employee's regularly scheduled day off. Employees can request to use these hours for personal time off but banked hours in excess of forty (40) that the employee does not use by the end of the fiscal year were paid to the employee. A potential constructive receipt issue existed since the employee could choose to use the hours as personal time off or banked the hours. The side letter moved the Holiday Credit provision to a calendar cycle with all unused hours cashed out in the IRS calendar year.

Vacation Accrual Cash Out

PPEO represented employees, who have a vacation accrual of 300 hours or more, were able to request cash out of up to 40 leave hours once per fiscal year. Since the cash out provision crossed two calendar years and was at employee discretion, this practice could have raised tax

consequences. The side letter moved the process to a calendar cycle and requires employees to submit irrevocable cash out election by December 31st of the prior calendar year.

Overtime Compensation

Overtime is paid at one and one-half times a PPEO or Confidential employee's regular rate of pay or, in lieu of pay, can be received as compensatory time earned (CTE). CTE was paid to the employee in cash or taken in the form of time off at the option of the employee, with hours in excess of eighty (80) paid out to the employee in cash at the end of each fiscal year. The employee's choice between cash or time off, and the potential for hours to be carried over from one calendar year to another, created possible tax concerns. The side letter moved the process to a calendar cycle and CTE hours will be cash out at the end of each IRS calendar year.

District Attorney and Child Support Attorney Leave

Employees designated as deputy district attorneys or child support attorneys receive seventy-two (72) hours of District Attorney / Child Support Attorney Leave at the beginning of each fiscal year. Employees had the option to cash out and or to use these hours as paid time off. If not utilized, the remaining leave hours were cashed out at the end of the fiscal year. The side letter moves the provision from a fiscal to a calendar year (IRS tax year) and clarifies current practices with regard to leave hours received, earned and or prorated upon separation.

FISCAL IMPACT

The side letters of agreement were entered into by the County of Placer and the Placer Public Employees Organization as a result of meeting and conferring. The parties mutually agreed to the provisions contained in the side letters, and these provisions will become effective upon adoption of the ordinance by the Board of Supervisors. Approval of the ordinance addresses business process changes by moving the provisions to a calendar year cycle, cashing out unused leave balances in the calendar year earned, and requires employees to make irrevocable vacation cash out elections. Board approval of the implementing ordinance will not increase or decrease the County's liability related to these benefits but simply updates business practices to eliminate possible tax consequences to our employees and/or the County.

Attachments: Ordinance

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: 3.04.240, 3.04.310, 3.04.490
3.04.520 and 3.04.830

Ordinance No: _____

First Reading: November 8, 2011

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

3.04.240 Procedure to secure overtime pay.

A. When overtime necessary to provide essential county service has been authorized by the department head, each employee working overtime shall submit to his or her department head a written statement within one working day, stating:

1. His or her name;
2. The date and hours overtime worked; and
3. The nature of the service performed during such overtime.

B. **Deputy Sheriffs Unit.** Overtime shall be compensated for in pay or compensatory time off at one and one-half time such employee's regular rate.

1. ~~Deputy Sheriffs Unit—Required Overtime.~~ Overtime required to be worked by the appointing authority or his or her authorized representative shall be compensated for at one and one-half time such employee's regular rate. The hours shall be compensated for in pay or compensatory time off at the discretion of the appointing authority.

~~C. 1. PPEO and Confidential Employees. Subject to the provisions of subsections A and B of this section, overtime earned may be paid in cash or taken in the form of compensatory time off at the option of the employee. Compensatory time off may be taken at any time with the prior approval of the department head or designee; however, if the requested time off is denied, the employee may request payment in cash in lieu of the denied compensatory time off. The department head or designee will approve the request in compliance with the FLSA. The employee's request to use accumulated CTO will be permitted within a reasonable time unless such use would unduly disrupt the operations of the department.~~

~~It is the department head's responsibility to assure that all CTO accumulated within the county's fiscal year by an employee shall be taken within that fiscal year. All accumulated CTO in excess of eighty (80) hours at the end of pay period 1, after adjusting the balance for any hours earned or used during that same pay period, shall be paid in cash.~~

2. ~~Deputy Sheriffs Unit.~~ Subject to the provisions of subsections A and B of this section, compensatory time earned and not used by the last day of the last full two-week pay period of such fiscal year shall be carried forward into the next fiscal year up to a maximum of eighty (80) hours. All accumulated compensatory time in excess of eighty (80) hours shall be paid in cash.

~~D3.~~ Notwithstanding the provisions of ~~subsection C~~ of this section, an employee may request that additional compensatory time off hours be carried over into a new fiscal year, if necessary, for medical reasons. Such request may be granted if recommended by the department head and approved by the county executive officer. The county executive officer may also approve such requests for good cause other than a medical leave of absence.

C. PPEO General and Professional Units and Confidential Employees. Overtime earned shall be paid at one and one-half times the employee's regular rate of pay or, in lieu of overtime pay, can be received as compensatory time earned (CTE) at one and one-half times the number of overtime hours worked.

1. The appointing authority or designee shall approve overtime prior to the time worked. CTE balances will comply with FLSA legal limits.

2. Subject to the provisions of subsections of this section, overtime earned may be paid in cash or taken in the form of compensatory time off at the option of the employee. CTE may be taken at any time as compensatory time off (CTO) with the prior approval of the department head or designee; however, if the requested time off is denied, the employee may request payment in cash in lieu of CTO.

3. Employees shall submit requests to use CTE as time off within a reasonable time period prior to the requested date(s). In keeping with FLSA requirements, approval of this request may be permitted unless the supervisor determines that use of CTE would unduly disrupt the operations of the department.

4. CTE accumulated within the county's calendar year must be taken as time off within the calendar year that it is earned or it will be cashed out. All accumulated CTE still on record, after adjusting the balance for hours earned or used during the pay period that results in the last pay check of the calendar year, shall be paid in cash on the last pay date of the calendar year (which is the same as the IRS tax year). No roll-over of CTE balances will be allowed into the next calendar year.

5. While on a leave of absence, employees will be required to use all CTE balances prior to going into an unpaid status. If integrating with State Disability Insurance (SDI), Paid Family Leave (PFL) or Workers' Compensation benefits, unpaid hours will be authorized for only the amount of time required for integration purposes. (Ord. 5572-B § 3, 2009; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; Ord. 5421-B, 2006; Ord. 5058-B (Attach. 13), 2000; prior code § 14.210)

Section 2: That Section 3.04.310 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:

...

3.04.310 Centralized compensatory time off records.

It shall be the duty of the personnel director **County** to establish and administer a centralized compensatory time off record keeping system, and to prepare and distribute appropriate forms for the reporting thereof. (Ord. 5478-B (Attach. A), 2007; prior code § 14.222)

...

Section 3: 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.

...

D. General and Professional Unit Vacation Cash Out. ~~Once per fiscal year,~~ **aBeginning in 2011, for the 2012 calendar year, any** employee with a vacation balance of three hundred (300) hours or more may request **once per calendar year** to cash out up to forty (40) vacation hours **of his or her annual vacation accrual in the following calendar year** at his or her base hourly rate which shall be defined as the hourly rate on the salary schedule plus any longevity pay **if applicable, subject to the following:**

- 1. 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.**
- 2. The cash out will coincide with the applicable IRS tax year based upon the check dates.**
- 3. The actual payment of the requested hours cannot occur until the hours to be cashed out for that calendar year have accrued. Cash-outs for hours accrued in prior years are not allowed.**
- 4. Requested vacation cash outs will be cashed out by the last pay check of the calendar year in which the vacation hours are earned.**

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Section 4: That Section 3.04.520 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:

3.04.520 Management/district attorney and child support attorney leave.

...
I. Deputy District Attorney/Child Support Attorney Leave. Employees designated as deputy district attorneys or child support attorneys shall receive a total of seventy-two (72) hours of administrative district attorney/child support leave at the beginning of each fiscal calendar year coinciding with the applicable IRS tax year based upon the pay check dates. Although district attorney/child support leave hours are credited to the employee at the beginning of the calendar year, these hours are considered to be earned each pay date, on a prorated basis, over the course of the calendar year Persons appointed to deputy district attorney or child support attorney positions after the start of a fiscal year will receive administrative leave on a pro-rated basis for the pay periods remaining in that fiscal year. Designated employees terminating county employment will receive a pro-rated 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 classification of deputy district attorney or child support attorney, will have a pro-rated 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 the 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.

1. Employees appointed to eligible positions after the beginning of the calendar year will receive district attorney/child support leave hours on a prorated basis for the pay dates remaining that calendar year.
2. Employees may elect to utilize their district attorney/child support leave hours on payroll as paid leave and/or may receive cash payment for such leave hours.
3. Use of district attorney/child support leave hours for paid leave shall be subject to the same limitations as the use of vacation leave; useable in 1/2 hour increments, except that no minimum period of employment shall be required before district attorney/child support leave hours may be so utilized.
4. While on a leave of absence, employees will be required to use all district attorney/child support leave balances prior to going into an unpaid status. If integrating with State Disability Insurance (SDI), Paid Family Leave (PFL), or Workers' Compensation benefits, unpaid hours will only be authorized for the amount of time required for integration purposes.
5. Cash payment for such district attorney/child support 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.
6. All district attorney/child support 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 leave hours are earned.
7. Employees separating from county employment, or vacating an eligible position, will have their district attorney/child support leave hours reconciled (use versus earned) based upon the number of pay dates completed within that calendar year. Employees who have utilized or cashed out more district attorney/child support 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.

8. Notwithstanding the above, for the 2012 calendar year only, employees shall have the value of one-half (1/2) of the annual district attorney/child support leave accrual credited to their leave account in pay period 1 in consideration of the amount previously received for the 2011-2012 fiscal year. District attorney/child support leave hours not utilized or cashed out prior to pay period 13 will be cashed out on the last pay check of the 2012 calendar year. (Ord. 5644-B § 3, 2011; Ord. 5478-B (Attach. A), 2007; Ord. 5058-B (Attach. 25 (part)), 2000; Prior code § 14.450)

Section 5: That Section 3.04.830 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:

...

3.04.830 Holiday credit account.—~~PPEO and DSA represented employees.~~

A. DSA Unit.

1. ~~AA~~ holiday credit account is available to ~~PPEO and DSA represented employees~~ to allow full-time and part-time employees to bank holiday hours that are earned for a holiday that falls on the employee's regularly scheduled day off. This holiday credit account is not subject to the same rules of use as other leave accounts and may be used only pursuant to the provisions contained herein.
2. ~~B~~For county holidays falling on a full-time employee's RDO for employees working other than a normal Monday through Friday schedule (i.e., 9-80, 4/10, etc.), such employees will receive holiday pay in the form of eight hours credited to his or her holiday credit account.
3. ~~C~~A part-time employee may request, in writing, that holiday pay earned on a regular day off be credited his or her holiday credit account.
4. ~~D~~Any request to use holiday credit banked hours for personal time off must be made at least forty-eight (48) hours in advance. Holiday credit banked hours may be used for integration with both State Disability Insurance (SDI) and Workers' Compensation (WC) benefits.
5. ~~E~~Any holiday credit banked hours in excess of forty (40) hours not used by the end of pay period 1, after adjusting the balance for any hours earned or used during that same pay period, shall be paid in cash. Compensation for any holiday credit banked hours balance not used at the time of termination shall be included in the employee's final paycheck. (Ord. 5572-B § 14, 2009; Ord. 5531-B, 2008)

B. PPEO General and Professional Unit.

1. **A holiday credit account will be created for the purpose of banking holiday hours that are earned by either a full-time or part-time employee for a holiday that falls on the employee's regularly scheduled day off. This Holiday Credit Account is different than and not subject to the same rules of use as vacation, sick leave, CTO and/or other leave accounts and may be used only pursuant to the terms contained in this section.**
2. **Any request to use holiday credit banked for personal time off must be made at least 48 hours in advance.**
3. **All holiday credit banked hours not used by the end of the pay period for the last pay check of the calendar year, after adjusting the balance for any hours earned or used during that same pay period, shall be paid in cash in the last pay check of the calendar year. No holiday credit hours will carry forward into the following calendar year.**

4. Compensation for any holiday credit banked hours balance not used at the time of termination shall be included in the employees final pay check.

Section 6: This ordinance shall take effect and be in full force and effect immediately upon final adoption. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code Section 25124.