



**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:** December 13, 2011  
**SUBJECT:** **Side Letter of Agreement with the Placer County Deputy Sheriff's Association  
Regarding Overtime Compensation and Adoption of an Urgency Ordinance**

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**ACTION REQUESTED**

It is recommended that your Board take the following actions:

1. Approve the attached Side Letter of Agreement for Overtime Compensation with the Placer County Deputy Sheriff's Association (PCDSA) and authorize the Chairman of the Board to sign the agreement.
2. First and final reading of an urgency ordinance adjusting the compensation and benefits of PCDSA represented employees.

**BACKGROUND**

The attached side letters reflect changes in county business practices for implementation of overtime compensation. Cash out options and fiscal year cycles create potential constructive receipt or tax issues as the options for cash payments cross over two different calendar years and involve employee choice. To address these concerns, PCDSA and the County's representatives met to discuss changes to current business practices which would mitigate any possible tax issues. On December 7<sup>th</sup> PCDSA members voted to approve the attached side letter of agreement related to Overtime Compensation. Staff requests that your Board approve the agreement and adopt an urgency ordinance so that business practice changes are effective immediately and the County remains in compliance with Internal Revenue Service regulations.

**Overtime Compensation**

Overtime earned is paid at one and one-half times the employee's regular rate of pay or, in lieu of pay, can be received as compensatory time earned (CTE). Currently, CTE may be paid to the employee in cash or taken in the form of time off at the option of the employee. All accumulated hours in excess of eighty (80) are paid out to the employee in cash at the end of each fiscal year. The employee's choice between cash or time off, as well as the potential for hours to be carried

over from one calendar year to another, creates possible tax concerns. To resolve these issues, the side letter moves benefit implementation to a calendar year cycle and places restrictions on CTE cash out time lines.

PCDSA representatives indicated that employees wanted to continue the existing program of carryover of up to 80 hours of CTE each year for medical leaves, vacations or other personal reasons. The side letter allows up to 80 CTE hours to be carried over into the next calendar year. These hours will be placed in a CTE Restricted Account and be limited to use for time off only. This restriction satisfies the IRS tax concern since employees can't choose to cash out their CTE in a calendar cycle where it was not earned.

For assist the transition into the new business practice, in December 2011 an employee may request a one-time carryover of more than 80 CTE hours into the restricted account, but not more than an additional 80 hours. This exception is limited to 2011 (one-time) and the hours will only be approved for planned medical or *extraordinary* personal reasons. The request must be submitted to and approved by the appointing authority and the County Executive Officer on or before December 15, 2011. All hours approved will be transferred to the CTE Restricted Account at the end of the calendar year, and must be used by the end of June 2012. At no time will an employee be allowed to have more than 80 hours in the CTE Restricted Account after June 2012.

PCDSA member who are paid for CTE in excess of 80 hours in December 2011, shall be entitled to a one-time a transition adjustment. Eligible employees will be provided with an adjustment to reflect what would have been paid had the hours been cashed out after the application of Measure F through June 2012.

### **FISCAL IMPACT**

The side letter of agreement was entered into by the County of Placer and the Placer County Deputy Sheriff's Association as a result of meeting and conferring. The parties mutually agreed to the provisions contained in the side letter, and these provisions will become effective upon adoption of the ordinance by the Board of Supervisors. The tax measure must be in place by the end of the calendar year (same as the tax year) for the County to be in compliance with Internal Revenue Service regulations. As a result, staff requests that the Board hold its first and final reading of an urgency ordinance that will become effective upon adoption.

Board approval of the side letter of agreement, and implementing ordinance will not increase or decrease the County's liability or obligations related to these benefits. Instead the agreements simply update business practices and address possible tax consequences to our employees and/or the County.

Attachments:

1. Side Letters of Agreement Overtime Compensation
2. Urgency Ordinance

**Side Letter of Agreement  
Between Placer County and the Deputy Sheriff's Association  
December 7, 2011**

**1. Compensatory Time Cash Out:**

Chapter 3.04.240 (C) (2) shall be modified as follows:

Compensatory time earned and not used by the last day of the pay period that results in the last paycheck of the calendar year shall be carried forward into the next calendar year up to a maximum of eighty (80) hours. All CTE accumulated within the County's calendar year in excess of eighty (80) hours must be taken as time off or cashed out within the calendar year that it is earned or it shall be paid in cash on the last pay date of the calendar year (which is the same as the IRS tax year). CTE carry-over (up to the 80 hour maximum) will be transferred to a restricted CTE account. Bargaining unit members will be allowed to use the hours in the restricted CTE account as time off only. The restricted CTE account may never have a balance greater than eighty (80) hours after the last paycheck in June 2012.

**2. Carry-over Transition Exception for January – June 2012:**

An employee may request to carry over more than 80 hours of CTE but not more than an additional 80 hours (for a total of 160 hours), on a one-time basis, to be used for planned medical or extraordinary personal reasons if that request is submitted to and approved by the appointing authority by December 15, 2011. All such leave requests will be forwarded to the County Executive Officer for final review and approval.

Hours approved under this exception will be transferred to the restricted CTE account. Employees approved for this additional CTE carry-over will be allowed to use the hours in the restricted CTE account as time off only. Any unused CTE accumulated in this restricted account that is in excess of eighty (80) hours will be paid out in the last paycheck in June 2012.

**3. Measure F Transition Adjustment:**

A bargaining unit member who is paid for CTE in excess of 80 hours in December 2011, in accordance with paragraph 1 above, shall be entitled to a one-time

transition adjustment. Eligible active bargaining unit employees will be provided with an adjustment in pay-period 2 which is paid on July 27, 2012, equal to the following:

- The employee's regular rate of pay in effect the first week of the last full two week pay period in June 2012 (pay-period 1), minus the regular rate of pay at cash out, multiplied by the number of CTE hours the employee had cashed out in December 2011.

### Side Letter Agreement

**Placer County Deputy Sheriff's Association:**

**Placer County:**

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David Topaz  
Lead Negotiator

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Robert Weygandt  
Chairman, Board of Supervisors

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Nuno Tavares  
President

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Thomas M. Miller  
County Executive Officer

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Nancy Nittler  
Personnel Director

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

In the matter of: **AN URGENCY ORDINANCE  
AMENDING SECTIONS OF CHAPTER 3 OF THE  
PLACER COUNTY CODE: 3.04.240**

Ordinance No: \_\_\_\_\_

First Reading: \_\_\_\_\_

The following **Urgency 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.**

...

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

1. 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 times such employee's regular rate. The hours shall be compensated for in pay or compensatory time off at the discretion of the appointing authority.

2. ~~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.

~~3. 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. (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)~~

**2. Compensatory Time Cash Out: Compensatory time earned (CTE) and not used by the last day of the pay period that results in the last paycheck of the calendar year shall be carried forward into the next calendar year up to a maximum of eighty (80) hours. All CTE accumulated within the County's calendar year in excess of eighty (80) hours must be taken as time off or cashed out within the calendar year that it is earned or it shall be paid in cash on the last pay date of the calendar year (which is the same as the IRS tax year). CTE carry-over (up to the 80 hour maximum) will be transferred to a restricted CTE account. Bargaining unit members will be allowed to use the hours in the restricted CTE account as time off only. The restricted CTE account may never have a balance greater than eighty (80) hours after the last paycheck in June 2012.**

**3. Carry-over Transition Exception for January – June 2012: An employee may request to carry over more than 80 hours of CTE but not more than an additional 80 hours (for a total of 160 hours), on a one-time basis, to be used for planned medical or extraordinary personal reasons if that request is submitted to and approved by the appointing authority by December 15, 2011. All such leave requests will be forwarded to the County Executive Officer for final review and approval. Hours approved under this exception will be transferred to the restricted CTE account. Employees approved for this additional CTE carry-over will be allowed to use the hours in the restricted CTE account as time off only. Any unused CTE accumulated in this restricted account that is in excess of eighty (80) hours will be paid out in the last paycheck in June 2012.**

**4. Measure F Transition Adjustment: A bargaining unit member who is paid for CTE in excess of 80 hours in December 2011, in accordance with paragraph 1 above, shall be entitled to a one-time a transition adjustment. Eligible active bargaining unit employees will be provided with an adjustment in pay-period 2 which is paid on July 27, 2012 equal to the following:**

- a. The employee's regular rate of pay in effect the first week of the last full two week pay period in June 2012 (pay-period 1), minus the regular rate of pay at cash out, multiplied by the number of CTE hours the employee had cashed out in December 2011.**

**Section 2: This ordinance shall take effect and be in full force and effect immediately as an urgency ordinance. Said urgency arises due to the fact that if the ordinance is not immediately effective, the county may be out of compliance with certain Internal Revenue Service rulings related to the constructive receipt of income potentially subjecting the County to increased tax liabilities. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code Section 25124.**