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:	June 7, 2011
SUBJECT:	**Sick Leave Use at Retirement and Vacation and Administrative Leave Changes**

ACTION REQUESTED

It is recommended that your Board adopt an ordinance implementing compensation and benefits adjustments for 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.

Placer Public Employee Organization Employees

Placer County and PPEO representatives negotiated the potential tax consequences of the use of sick leave at retirement and 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 their 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 which addresses the possible tax concerns. The Side Letter of Agreement for Sick Leave Use at Retirement was approved by the Board on May 24, 2011.

Cash out provisions for vacation accruals and administrative leave cross calendar years so there may be a potential constructive receipt issue that could result in tax consequences. PPEO and the County have agreed to address these items during contract negotiations that began earlier this month.

Designated Management and Confidential Employees

For several months, the County Executive Officer and members of the Management and Confidential Teams have met to discuss the tax consequences of sick leave use at retirement. Based upon the results of 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 and that all costs related to administration of these 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. 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.

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 in the next calendar year.

Cash out provisions for vacation and management leave benefits cross calendar years so potential constructive receipt tax implications exist for these benefits. The attached ordinance addresses the changes 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 of vacation hours that were accrued that calendar year.

FISCAL IMPACT

The Board approved the PPEO Side Letter of Agreement on May 24, 2011. Today the Board is asked to adopt the ordinance to implement changes for PPEO, management and confidential employees related to sick leave use at retirement, vacation accrual cash out and management leave. Approval of this item will not increase or change the County's liability related to these current benefits; but does address possible employee and employer tax consequences

Attachment: 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; 3.04.420, 3.04.490 and 3.04.520

Ordinance No:______________

First Reading: May 26, 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 3.04.420 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

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, o~~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)(1)~~ (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.

....

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 lLeave.

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.

...

~~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.~~