



**BOARD OF SUPERVISORS  
AGENDA LETTER**

**Agenda Number:**

**Clerk of the Board of Supervisors**  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Human Resources  
**Department No.:** 064  
**For Agenda Of:** 3/15/2022  
**Placement:** Administrative  
**Estimated Time:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

**TO:** Board of Supervisors

DocuSigned by:

*Maria Elena De Guevara*

**FROM:** Department Maria Elena de Guevara, Human Resources Director, 568-2816  
Director(s)  
Contact Info: Joseph Pisano, Employee Relations Division Chief, 568-2839

**SUBJECT:** Standby Special Duty Pay – DSA, Local 620, and Local 2046

**County Counsel Concurrence**

As to form: Yes

Other Concurrence: Select\_Other

As to form: N/A

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve the side letter agreements with the Deputy Sheriffs' Association, Service Employees International Union, Local 620 and the Santa Barbara County Fire Fighters Local 2046 in Attachments A, B, and C, and
- b) Determine pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4) that the above action is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and therefore is not a project subject to environmental review.

**Summary Text:**

Beginning in early 2021, County staff met with representatives from the Deputy Sheriffs' Association (DSA), Service Employees International Union, Local 620 (Local 620), and the Santa Barbara County Fire Fighters, Inc., Local 2046 (Local 2046) to negotiate impacts of the Santa Barbara County Employees Retirement System (SBCERS) implementation of a California Supreme Court decision issued on July 30, 2020 in the case known as *Alameda County Deputy Sheriffs' Association et al. v. Alameda County Employees' Retirement Association and Board of Retirement of ACERA* (9 Cal. 5<sup>th</sup> 1032; aka *Alameda*).

Prior to the *Alameda* decision, compensation for hourly standby was considered pensionable for employees in legacy retirement plans. That changed with the *Alameda* court decision, which interpreted the California Public Employees' Pension Reform Act (PEPRA, passed in 2013) as treating hourly standby

pay as non-pensionable pay for “services rendered outside normal working hours” unless the time was worked by all employees in the same job classification. This change prompted the parties to meet and confer. The parties have reached the agreements set forth in Attachments A, B, and C to convert compensation of certain employees regularly assigned to work standby shifts as part of their normal job assignments from an hourly rate to a flat dollar per pay period amount in recognition the standby shifts are included in their normal working hours. The recommended actions approve these side letter agreements, which have the effect making this compensation pensionable for similarly situated employees who are required to be on standby as part of their normal, mandatory, regularly scheduled work assignments.

**Background:**

On July 30, 2020, the California Supreme Court issued the *Alameda* decision, which resulted in public retirement systems statewide, including SBCERS, changing the way retirement benefits are calculated for some retirees, active members, and deferred members. As a result of the *Alameda* decision, only standby duty that is mandatory, regularly scheduled, and more significantly here, also uniformly worked by other members of a given job classification, is pensionable.

The criteria that only standby duty that is mandatory, regularly worked, and uniformly distributed across a job classification is pensionable has resulted in disparate impacts on retirement contributions/benefits for certain employees, including those assigned to standby duty in the same work locations as other employees. For example, in the Public Works Department’s Laguna Sanitation District, both Maintenance Workers and Waste Water Plant Operators are regularly assigned to mandatory standby duty. Hourly compensation for standby duty is pensionable for “Waste Water Plant Operators,” who are in a specialized job classification only assigned to work in the Laguna Sanitation District. However, because “Maintenance Worker” is a broader job classification used in other Public Works divisions where incumbents are not assigned to standby duty, compensation for hourly standby duty for Maintenance Workers at the Laguna Sanitation District is considered to be outside their normal working hours and not pensionable.

Other representative examples of impacts of the *Alameda* decision that the recommended actions would address is standby duty for the Public Information Officer (PIO) in the Fire Department and for Sheriff’s Deputies in the Air Support Unit. The Fire Department and Sheriff’s Office regularly assign mandatory standby duty to a Fire Captain who functions as the PIO and to Deputies in the Air Support Unit. Although these duties are mandatory and regularly worked, because not all Fire Captains or Sheriff’s Deputies are assigned the same standby duty, post *Alameda*, compensation for these duties has been determined to be outside their normal working hours and not pensionable.

If compensation for these regularly assigned mandatory job duties is characterized as an allowance under special assignment pay codes rather than as hourly standby pay for services outside normal working hours, it is considered pensionable for affected employees, as long as the duties are mandatory, regularly scheduled, and uniformly worked by similarly situated employees as part of their normal work assignments. The recommended actions approve side letter agreements that convert the average hourly standby pay worked by similarly situated employees in various assignments to flat dollar biweekly special assignment pay. This will have the impact of making compensation for working in these special assignments pensionable for employees in both legacy and PEPR retirement plans.

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**Performance Measure:** Not applicable

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

The recommended actions affect approximately 42 County employees, of whom 4 currently meet the criteria for their hourly standby pay to be pensionable. The County has continued to compensate all employees affected by the recommended actions for their standby duty to the present time. However, beginning in June of 2021, SBCERS stopped collecting pension contributions on the standby pay of 38 of these employees who are in legacy retirement plans but don't meet the criteria for their hourly standby pay to be pensionable.

The estimated annual cost increase for the County's retirement contributions for these 38 employees is approximately \$43,000 for the balance of Fiscal Year 2021-22 and approximately \$140,000 annually thereafter. The side letter agreements provide for a look back period that would recharacterize the hourly standby that legacy employees received between December 30, 2019 and the effective date of prospective implementation as allowances under special assignment pay provisions in the respective MOUs for the DSA, Local 620, and Local 2046. There is no additional immediate County cost for this since the County previously paid pension contributions on this compensation for most of that period, and also paid pension contributions on other hourly standby compensation that was not refunded by SBCERS. This may have a negligible positive or negative effect on the County's Unfunded Actuarial Accrued Liability in the next actuarial study.

**Key Contract Risks:**

None

**Staffing Impacts:**

None

**Special Instructions:**

Please send a copy of the Minute Order to Stephanie Langsdorf, Interim Employee Relations Manager, at [SLLangsdorf@countyofsb.org](mailto:SLLangsdorf@countyofsb.org)

**Attachments:**

- Attachment A: Side Letter Agreement with the DSA
- Attachment B: Side Letter Agreement with Local 620
- Attachment C: Side Letter Agreement with Local 2046

**Authored by:** Joseph Pisano

**cc:** Mona Miyasato, County Executive Officer  
Rachel Van Mullem, County Counsel  
Betsy Schaffer, Auditor Controller  
Assistant County Executive Officers  
Greg Levin, Chief Executive Officer, SBCERS