



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:** October 2, 2018  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Lori Gentles, Human Resources Director, 568-2816  
Director(s)  
Contact Info: Joseph M. Pisano, Chief of Employee Relations,  
568-2839  
**SUBJECT:** Terms and Conditions of Employment for Employees Represented by the  
Civil Attorneys Association, the Deputy District Attorneys Association,  
and for Confidential Unrepresented Attorneys

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:**

As to form: N/A

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**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- A. Approve the implementation of pension cost sharing provisions as a change in terms and conditions of employment for employees represented by the Civil Attorneys Association and the Deputy District Attorneys Association and for Confidential Unrepresented Attorneys, and
- B. Determine that the above actions are government fiscal activities or funding mechanisms which do not involve any commitment to any specific project which may result in potential physical impacts on the environment, and are therefore not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA guidelines.

**Summary Text:**

The current Memoranda of Understanding (MOU) between the County and the Civil Attorneys Association (CAA) and between the County and the Deputy District Attorneys Association (DDAA) both expire on June 30, 2019. Pursuant to reopeners in those MOU regarding retirement and potential salary increases, the parties have met and conferred in good faith but failed to reach agreement on the issues.

The recommended action would implement (unilaterally impose) provisions of the County's last, best, and final offer (LBFO) for both the CAA and the DDAA, as permitted by law. In addition, terms and conditions of employment for Confidential Unrepresented Attorneys typically mirror those for employees represented by the CAA, and the recommended actions would impose the pension cost-sharing provisions recommended for CAA represented attorneys on Confidential Unrepresented Attorneys.

More specifically, the recommended actions would require attorneys in these groups who are in classic/legacy retirement plans to pay a similar percentage of their pensionable income as a contribution to the County's share of retirement costs as other County employees in classic/legacy retirement plans: 1.5% for DDAA represented attorneys and 1.49% for attorneys represented by the CAA and for Confidential Unrepresented Attorneys, effective as soon as practicable after Board approval.

**Background:**

There are currently two (2) Confidential Unrepresented Attorneys, one in the office of County Counsel and one in Child Support Services. In addition, the CAA represents approximately twenty-four (24) attorneys in the office of County Counsel, and the DDAA represents approximately forty-six (46) attorneys in the District Attorney's Office. The parties have been in negotiations since November 2017 regarding potential salary increases and regarding pension cost-sharing provisions for employees represented by these two unions who are in "classic" aka "legacy" retirement plans, but have failed to reach agreements. Pursuant to Government Code Section 3505.7, the County has the ability to implement its last best and final offer once applicable mediation and factfinding procedures have been exhausted. Neither the CAA nor the DDAA requested mediation or factfinding related to these negotiations. Staff recommends that the Board approve implementation of the pension cost-sharing provisions of the County's LBFO for CAA and DDAA represented employees in classic/legacy retirement plans at this time. In addition, staff recommends that the terms of the CAA cost-sharing provision be implemented for the Confidential Unrepresented Attorney bargaining unit.

Classic/legacy retirement plans were established prior to January 1, 2013 when the Public Employees' Pension Reform Act (PEPRA) was implemented statewide in California. Employees in classic/legacy retirement plans contribute less toward their pension benefits than employees hired post PEPRA. The County has reached agreements with the other eight of ten bargaining groups for pension cost-sharing by employees in classic/legacy retirement plans, and implemented similar provisions for unrepresented employees in these plans.

Employees represented by other labor groups who are in the same retirement plans as the attorneys represented by the CAA and DDAA reached agreements that provided for affected employees to contribute 1.5% of their pensionable income as a mandatory pre-tax contribution

(pick-up) toward the County's share of retirement costs in Fiscal Year 2018-19. Staff recommends that a 1.5% retirement pick-up be implemented for DDAA represented attorneys, and a 1.49% pick-up be implemented for CAA represented attorneys and for the Unrepresented Confidential Attorneys bargaining unit, effective October 8, 2018 or as soon as the necessary programming and payroll testing can be completed, if it has not been completed by that date. The percentage for the latter attorneys is slightly lower because, in the absence of an agreement between the County and the CAA, the applicable Government Code sections limit what can be unilaterally imposed, and the County is prohibited from imposing a pick-up greater than 1.49% on CAA represented attorneys.

Once the required payments begin, they will be credited to each employee's account and designated "employee contributions" for purposes of Government Code section 31631(b). To enable employees to make these contributions with "pre-tax dollars," the County deems the contributions "picked-up" pursuant to Internal Revenue Code section 414(h), Government Code section 31581.2, and Santa Barbara County Resolution 02-281.

**Fiscal and Facilities Impacts:**

**Budgeted:** No

**Fiscal Analysis:**

There are no additional costs associated with the recommended actions. Since assumptions for the Fiscal Year 2018-19 Budget did not include provisions for potential pension-cost sharing for employees in classic/legacy retirement plans, the recommended actions would result in modest unanticipated cost savings in the current fiscal year. The estimated savings from implementing the recommended pension cost-sharing provisions for these three groups of attorneys are approximately \$70,000 for the remainder of Fiscal Year 2018-19 and approximately \$96,000 annually thereafter.

**Special Instructions:**

**Attachments:**

**Authored by:** Joseph Pisano

**cc:** Mona Miyasato, County Executive Officer  
Michael C. Ghizzoni, County Counsel  
Theo Fallati, Auditor Controller  
Joyce Dudley, District Attorney  
Assistant CEOs