SANTA BARBARA COUNTY
BOARD AGENDA LETTER

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

Agenda Number:	
Prepared on:	9/1/04
Department Name:	County Administrator
Department No.:	012
Agenda Date:	9/21/04
Placement:	Administrative
Estimate Time:	N-A
Continued Item:	NO
If Yes, date from:	

TO: Board of Supervisors

FROM: Michael F. Brown
County Administrator

STAFF CONTACT: Jim Laponis, Deputy County Administrator
568-3400

SUBJECT: Retirement Replacement Benefits Plan

Recommendations:

That the Board of Supervisors approve the attached resolution that:

a. Adopts the Santa Barbara County Replacement Benefits Plan ("Plan");

b. Delegates the administration of the Plan to the County Auditor-Controller;

c. Approves the attached Memorandum of Understanding between the County and the Santa Barbara County Employees' Retirement System ("Retirement System MOU") and directs the County Administrator to execute the Retirement System MOU;

d. Approves the attached Administrative Services Agreement between the County and the Santa Barbara County Employees' Retirement System and directs the County Administrator to execute the Administrative Services Agreement; and

e. Authorizes the County Administrator to execute a Memorandum of Understanding ("District MOU" copy attached) with any District that participates in the Retirement System an elects to participate in the Plan.

Alignment with Board Strategic Plan:

Goal 3: The recommendations are primarily aligned with Goal No. 3.
A Strong, Professionally Managed County Organization.

Executive Summary and Discussion:

County employees that work at least half time, and employees of certain Districts, are members of the Santa Barbara County Employees' Retirement System. The Retirement System was established under the County Employees Retirement Law of 1937 – Government Code Section 31450 et.seq. Retirement benefits that are otherwise earned and payable to members of the Retirement System are limited by the rules of Section 415(b) of the Internal Revenue Code of 1986. Section 415(b) limits the amount of annual retirement benefits that a retirement system can pay to a member. A retirement system potentially would lose its qualified tax-deferred status, if it were to pay benefits in excess of the 415(b) limits. If a retirement replacement benefits plan were not in place and a retiree's pension exceeded the 415(b) limits, the County would likely be sued over the loss of those benefits. There is a very high likelihood that the County would lose such a case.

The current 415(b) limits are $165,000 per year for safety members with at least 15 years of service, and for general members who retire at age 62 or older. The dollar limit is reduced for general members that retire before age 62, for example it drops to $38,740 at age 40. (Attached is a chart that shows the dollar limit corresponding to earlier retirement ages.) The dollar limits are subject to an annual cost of living adjustment.

There are only a few County employees that are projected to reach the 415(b) limits. The greatest risk is for Probation Department employees, because they are entitled to safety retirement benefits from the Retirement System, but the Internal Revenue Service does not recognize them as safety. Retirement safety status allows an individual to retire with a relatively higher benefit at a younger age, compared to a general member. A safety member is entitled to 3% of his/her final compensation for each year of service at a retirement age of 55, while a general member is entitled to only 2% of his/her final compensation for each year of service at a retirement age of 57. Even though probation officers earn higher safety retirement benefits, their pensions will be subject to the declining 415(b) limits. For example, if a Probation Department employee earned a pension of $140,000 at a retirement age of 57, the pension would be limited to $113,422 by 415(b). If the Retirement System were to pay a benefit in excess of the 415(b) limit, it would jeopardize its qualified tax-deferred status.

In accordance with Section 415(m) of the Internal Revenue Code, the County is authorized to set up a retirement replacement benefits plan solely for the purpose of providing to retired members of the Retirement System and to their eligible survivors, that part of the annual retirement benefit that exceeds the limitations on benefits imposed by Section 415(b). Retirement replacement benefits plan are used by many other entities, in both the private and public sector, to replace benefits limited by section 415(b).

If a member's annual retirement benefit were to exceed the 415(b) limits and a retirement replacement benefits plan were in place, a member would receive an annual retirement benefit up to the 415(b) dollar limit from the retirement system and then the retirement replacement benefits plan would pay the amount that exceeds the 415(b) limit. The Retirement System's actuary has indicated that a retirement replacement benefits plan should not increase the County's total net cost of providing retirement benefits.

It is recommended that the Board establish and adopt the attached retirement plan entitled the "Santa Barbara County Replacement Benefits Plan ("Plan"), in accordance with Section 415(m) of the Internal Revenue Code. The Plan would be a benefit to the County and its employees because it would ensure that its employees would receive the entire retirement benefits that they earn. The Auditor-Controller has agreed to administer the Plan.

1. **Memorandum of Understanding and Administrative Services Agreement with the Retirement System**

   The most efficient way for the County to operate a retirement replacement benefits plan is to enter into a memorandum of understanding with the Retirement System setting out the responsibilities of the County and the Retirement System. Under the Plan the County shall pay replacement benefits from its general assets. In accordance with Internal Revenue Code Section 415(m), no assets of the Retirement System shall be used to pay replacement benefits and no assets of the Retirement System shall be used to pay the cost of administration or any other costs regarding the operation of the Plan.

   Under the Retirement System MOU, the Retirement System would determine the amount of benefits for any affected retired member and surviving beneficiaries that would be paid from the Retirement System without the limits of Section 415(b), and would determine the amount of the benefits that can be paid to such persons in accordance with the limits of Section 415(b). The difference between these two amounts (if any) is the amount of replacement benefits payable by the County under the Plan.

   The attached Administrative Services Agreement between the County and the Retirement System designates the Retirement System as the contract administrator for the Plan. The County does not have the current systems to make payments under the Plan, to provide proper withholding and reporting of payments from the Plan, and to provide proper communication to participants in the Plan without expending substantial additional amounts of money. The Retirement System has the existing systems to undertake these and all other parts of the administration of the Plan. In order to help ensure that members of the Retirement System are paid the full amount of their retirement benefits, from both the Retirement System and the Plan, the Retirement System is willing to act as a contract administrator for the Plan as long as its full cost of doing this are paid by the County.

2. **Memorandum of Understanding with District(s)**

   Section 415(b) also limits the retirement benefits paid to the District employees that are members of the Retirement System. The most efficient way for Districts to provide a replacement benefit is to participate in the County's Plan and sharing the related costs. If a District were to elect to participate in the County's Plan, it would be appropriate for the County and the District to enter into a memorandum of understanding ("District MOU"), setting out the responsibilities of the County and the District with respect to the District's participation in such a plan. It is recommended that the County Administrator be authorized to enter into a District MOU (copy attached) with any District that opts to participate in the Plan.

Mandates and Service Levels: The Employees' Retirement System is not mandated, however it is considered a business necessity.

Fiscal and Facilities Impacts: The Retirement System's actuary has indicated that a retirement replacement benefits plan should not increase the County's total net cost of providing retirement benefits.

Special Instructions: Clerk of the Board is requested to send an executed copy of the adopted resolution to Oscar Peters, Employee's Retirement System Administrator.

Concurrence: Robert Geis, Auditor-Controller
Stephen Shane Stark, County Counsel
Oscar Peters, Employee's Retirement System Administrator

Attachments:

- Board Resolution
- Replacement Benefits Plan
- Memorandum of Understanding with Retirement System
- Administrative Services Agreement with Retirement System
- Memorandum of Understanding with District(s)
- Internal Revenue Code Section 415(b) dollar limit chart