



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: CEO/Human Resources
Department No.: 012
For Agenda Of: January 7, 2014
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Mona Miyasato, County Executive Officer, 568-3404
Jeri Muth, Human Resources Director, 568-2816

Contact Info: Jeri Muth, Human Resources Director, 568-2816

SUBJECT: *IRS Requirements for Voluntary Correction Program*

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 adopt a resolution approving regulations adopted by the Board of Retirement in order to retroactively amend the Santa Barbara County Employees' Retirement System (SBCERS) Plan to comply with the applicable requirements of federal law.

Summary Text: The attached regulations were adopted by the Board of Retirement on December 11, 2013 per the recommendation of the Board of Supervisors on December 10, 2013. The recommended action will complete the process required by the Internal Revenue Service (IRS) to comply with a favorable Compliance Statement the County received in October 2013.

Background:

Several years ago, the County of Santa Barbara became aware that the Santa Barbara Employees' Retirement System's (SBCERS) compliance with the County Employees Retirement Law of 1937 did not fully comply with federal tax laws. In particular, like many other systems throughout the State, from Fiscal Year 1988-1989 through Fiscal Year 2007-2008, SBCERS had transferred "excess earnings" from the pension funds into the Health Reserve and Supplemental Health Reserve (Reserves) and used those funds to pay retiree health subsidies, which did not conform to federal tax law. As part of the resolution of this issue, in 2008, the County established a 401(h) account to provide for retiree health benefits. In addition, since June 30, 2007, the Reserves have been treated as pension valuation assets. In 2008, based on the advice of the County's outside tax counsel (Ice Miller), the County voluntarily disclosed this issue to the Internal Revenue Service (IRS) through its Voluntary Correction Program (VCP).

On October 28, 2013, the IRS issued a favorable Compliance Statement and a favorable determination letter. Both of these documents were conditioned upon approval of the compliance regulations.

On December 10, 2013, the Board of Supervisors took the initial step of recommending the regulations for adoption by the SBCERS Board of Retirement. On December 11, 2013, the Board of Retirement adopted the regulations. The action before the Board of Supervisors will complete the process of amending the SBCERS Plan to include the regulations.

cc: Robert W. Geis, Auditor-Controller
Michael C. Ghizzoni, County Counsel
Gary Amelio, SBCERS

Attachments: Resolution Approving Regulations Adopted by the Board of Retirement in Order to Retroactively Amend the Santa Barbara County Employees' Retirement System (SBCERS) Plan to Comply with the Applicable Requirements of Federal Law, with attached Regulations