



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: 4/4/2023
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Maria Elena De Guevara, Director of Human Resources,
Director(s) 805-568-2817
Contact Info: Gregory E. Levin, CPA, SBCERS CEO, 805-568-2940

SUBJECT: Adoption of Government Code Section 31646(c)

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Adopt the Resolution in Attachment A making the provisions of Government Code Section 31646(c) applicable to the County, which would allow SBCERS members to purchase retirement service credit for an unpaid leave due to the serious illness of a family member when the absence is eligible for coverage under the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA); and
- b) Determine pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(5) that the above action is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

Summary Text:

Effective January 1, 2023, Government Code (Govt. Code) § 31646(c) was amended to allow SBCERS members to purchase retirement service credit for an unpaid leave due to the serious illness of a family member when the absence is eligible for coverage under the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA). SBCERS members who want to purchase such credit must pay for their own contributions plus those of their employer, including the interest that the contributions would have earned had they been on deposit if the employee had not been on leave. This

provision is not operative until the Board of Supervisors, by Resolution adopted by majority vote, makes it applicable to the County of Santa Barbara and applies it to this specified type of leave that commences after adoption by the Board.

Background:

The County Employees' Retirement Law ("CERL") authorizes a member who returns to active service following an uncompensated leave of absence on account of illness to receive service credit for the period of the absence upon payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have accrued. Effective January 1, 2021, Section 31646 was expanded to include the optional purchase by members of periods of unpaid parental leave of up to 12 consecutive months in addition to leave periods when a member is disabled due to pregnancy. (Govt. Code § 31646(b).) On June 28, 2022, the Board of Supervisors made this provision applicable to the County.

On September 25, 2022, Governor Gavin Newsom signed into law Assembly Bill 1971, amending Govt. Code § 31646 effective January 1, 2023. This bill expands the scope of Section 31646 to now allow a member who returns to active service following an uncompensated leave of absence because of the serious illness of a family member when the absence is eligible for coverage under the FMLA or CFRA to receive service credit for the period of the absence, upon the payment of the member and employer contributions that would have been paid during that period, together with the interest that would have been earned. This new provision is not operative in a county until the board of supervisors, by resolution adopted by a majority vote, makes the provisions applicable to that county and applies it to leave that commences after the adoption of the resolution.

Performance Measure: N/A

Contract Renewals and Performance Outcomes: N/A

Fiscal and Facilities Impacts: N/A

Budgeted: No

Fiscal Analysis:

There are no additional costs associated with adoption of Govt. Code §31646(c). The statute requires that the member pay all contributions, including County/employer contributions, for leave because of the illness of a family member. Accordingly, the adoption of Government Code Section 31646(c) should not have an adverse actuarial impact on the system or materially impact employer contributions.

Key Contract Risks: N/A

Staffing Impacts: N/A

Legal Positions: N/A

FTEs: N/A

Special Instructions:

Please send one copy of the adopted Resolution to Cristal Rodriguez, Deputy General Counsel, SBCERS, at CriRod@sbcers.org.

Attachments:

Attachment A: Resolution adopting the provisions of Government Code Section 31646(c)

Attachment B: Text of Section 31646

Attachment C: Letter from Cheiron, SBCERS Actuaries

Authored by:

Gregory E. Levin, CEO, SBCERS

cc:

Mona Miyasato, County Executive Officer

Rachel Van Mullem, County Counsel

Betsy Schaffer, Auditor-Controller

All Special District Employers participating in SBCERS

Michael Vidal, Chair of the Board of Retirement