



# Monterey County

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## Board Report

Legistar File Number: 15-1079

October 13, 2015

**Introduced:** 9/30/2015

**Version:** 1

**Current Status:** Agenda Ready

**Matter Type:** General Agenda Item

Adopt a Resolution to:

- a. Amend Personnel Policies and Practices Resolution No. 98-394 to amend Sections A.25.9; A.30.10; A.30.11 and A.30.12 and to add Section A.30.13 related to the cashing out of certain vacation/annual leave/paid time off hours;
- b. Direct the Human Resources Department to incorporate the changes; and
- c. Authorize the Auditor-Controller to implement such changes in the Advantage HRM system.

The Board of Supervisor to consider the following:

1. Amend Personnel Policies and Practices Resolution No. 98-394 to amend Sections A.25.9; A.30.10; A.30.11 and A.30.12 and to add Section A.30.13 related to the cashing out of certain vacation/annual leave/paid time off hours;
2. Direct the Human Resources Department to incorporate the changes; and
3. Authorize the Auditor-Controller to implement such changes in the Advantage HRM system.

### SUMMARY/DISCUSSION:

Monterey County offers a Vacation Buy Back/Cash Out program to certain employees. According to our Auditor Controller, the current program could be in non-compliance with Constructive Receipt Doctrine of the IRS, thus making the value of accrued leave taxable, if the County does not adopt a plan that has an irrevocable election component.

At a Special Meeting on September 11, the Board directed the Staff to develop a “stand alone” program outside of the Section 125 Plan for possible consideration, to continue discussions with employees, and to report back on September 29. On September 29, staff reported back to the Board with an update on discussions with various represented and unrepresented groups and received direction to proceed with a “stand alone” program for adoption in 2015, and also to continue to work with employee groups to see if such a program could be improved within the confines of IRS requirements.

The proposed language for changes to the Personnel Policies and Procedures Resolution (PPPR) to create a “stand alone” program, is included as Attachment A. Amendment to the PPPR is by way of Resolution, which is included as Attachment B. Adoption of these changes is requested at this time, in order to allow for an “enrollment” period of approximately 6 weeks.

Staff is also following the Board’s prior direction to try to develop an improved program that responds to employee’s concerns over “emergencies” but still passes IRS muster, through

discussions with employee groups and tax specialists. These efforts are on-going and if such an “improved program” is developed, it would then be the subject of a request for a Private Letter Ruling from the IRS. If a positive response is received from the IRS, it is anticipated that the Board would consider amending the PPPR “stand alone” program to incorporate those provisions in the future.

OTHER AGENCY INVOLVEMENT:

The Office of the Auditor-Controller, Human Resources Department and the CAO have worked together with the County Counsel’s Office and outside legal counsel to develop a Stand Alone Program for County staff.

FINANCING:

In 2014, employees cashed out a total of \$2,362,847 in accrued leave under this benefit. At this point it is unknown what impact a Stand Alone Program would have on requiring employees to “plan ahead” will have on total “cash outs.”

Attachments:

A - PPPR Tracked Changes

B - BoS Resolution \_ Amend PPPR 10/13/15

Prepared and Approved by: Manuel T. González, Interim Human Resources Director, 3593

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Manuel T. González  
Assistant CAO  
Interim Human Resources Director

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Date