



Legislation Details (With Board Report)

File #: 20-1033 **Name:** Amendment to the Monterey County Section 125 Flexible Benefit Plan

Type: General Agenda Item **Status:** Passed - Human Resources Department

File created: 12/2/2020 **In control:** Board of Supervisors

On agenda: 12/8/2020 **Final action:** 12/8/2020

Title: a. Approve the temporary amendment to the Monterey County Section 125 Flexible Benefit Plan to allow employees to make a one-time mid-year change to their Flexible Spending Account and/or Dependent Care Assistance Program for plan year 2020 only; and
 b. Approve the permanent amendment to the Monterey County Section 125 Flexible Benefit Plan to increase the Flexible Spending Account carryover limit from \$500 to \$550 as indexed for inflation for plan year 2020 and subsequent years; and
 c. Authorize and Direct the Human Resources Department and the Auditor-Controller’s Office to implement the amendments to the Monterey County Section 125 Flexible Benefit Plan.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Current Section 125-Attachment A, 3. IRS Notice 2020-29- Attachment B, 4. Temporary Section 125 CARES Act Amendment-Attachment C, 5. IRS Notice 2020-33- Attachment D, 6. Section 125 Flexible Benefit Plan Document- Attachment E, 7. Item No. 69 Completed Board Order

Date	Ver.	Action By	Action	Result
12/8/2020	1	Board of Supervisors		

a. Approve the temporary amendment to the Monterey County Section 125 Flexible Benefit Plan to allow employees to make a one-time mid-year change to their Flexible Spending Account and/or Dependent Care Assistance Program for plan year 2020 only; and
 b. Approve the permanent amendment to the Monterey County Section 125 Flexible Benefit Plan to increase the Flexible Spending Account carryover limit from \$500 to \$550 as indexed for inflation for plan year 2020 and subsequent years; and
 c. Authorize and Direct the Human Resources Department and the Auditor-Controller’s Office to implement the amendments to the Monterey County Section 125 Flexible Benefit Plan.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve the temporary amendment to the Monterey County Section 125 Flexible Benefit Plan to allow employees to make a one-time mid-year change to their Flexible Spending Account and/or Dependent Care Assistance Program for plan year 2020 only; and
- b. Approve the permanent amendment to the Monterey County Section 125 Flexible Benefit Plan to increase the Flexible Spending Account carryover limit from \$500 to \$550 as indexed for inflation for plan year 2020 and subsequent years; and
- c. Authorize and Direct the Human Resources Department and the Auditor-Controller’s Office to implement the amendments to the Monterey County Section 125 Flexible Benefit Plan.

SUMMARY:

On May 26, 2020 the Board of Supervisors approved the relief afforded by the Internal Revenue Service (IRS) issued notices 2020-29 and 2020-33 in response to the national COVID-19 pandemic emergency. These notices

allow employers to offer certain mid-year benefit changes to employees, allow employers to increase the Flexible Spending Account rollover amount from \$500 to \$550 and require modifications to the County of Monterey Section 125 Flexible Benefit Plan no later than December 31, 2020. The County's Section 125 Flexible Benefit Plan is the written plan document which allows the County to provide medical, dental, vision, FSA, and DCAP benefits to employees on a pre-tax basis.

In order to implement the requirements of these IRS notices, the County must approve two separate amendments to the current County of Monterey Section 125 Flexible Benefit Plan (Attachment A). The first amendment is in response to Notice 2020-29 (Attachment B) which increases the flexibility to make mid-year changes to FSA and DCAP accounts by allowing employees to revoke an election, make a new election and increase or decrease an existing election. This notice also extends the grace period for both the FSA and DCAP plans to allow employees to use unused funds as of December 31, 2019 to pay for expenses incurred through December 31, 2020. These changes apply only to plan year 2020. The implementation of the changes outlined in notice 2020-29 provided County employees the flexibility to revoke further participation in the FSA and DCAP plans or reduce their current contribution election for the 2020 plan year. This flexibility is important because of unanticipated lack of availability of medical care or dependent care services due to COVID-19 and Shelter in Place Orders, resulting in some County employees having unused/unrecoverable balances at the end of the plan year. The first amendment requires the adoption of the attached temporary changes to the Monterey County Section 125 Flexible Benefit Plan (Attachment C).

The second amendment is in response to Notice 2020-33 (Attachment D) which increases the FSA carryover limit from \$500 to \$550 as indexed for inflation for plan year 2020 and subsequent years. This provision can be adopted retroactive to January 1, 2020 and thus would allow County employees to carryover more unused funds from one plan year to the next and reduce forfeiture of balances. The second amendment requires the adoption of the attached permanent changes to the Monterey County Section 125 Flexible Benefit Plan (Attachment E) no later than December 31, 2020.

DISCUSSION:

The Human Resources Department has been engaged in updating the Monterey County Section 125 Flexible Benefit Plan to incorporate the provisions allowed under the IRS Notices 2020-29 and 2020-33 as approved by the Board of Supervisors and to ensure compliance with Federal and State regulations. The Human Resources Department partnered with the Offices of the County Counsel and the County's third-party flexible spending account administrator, Flexible Benefit Administrators to discuss and identify the following changes to the Monterey County Section 125 Flexible Benefit Plan:

- Allow employees to make a mid-year change to their Flexible Spending Account and/or the Dependent Care Assistance Program for plan year 2020 only as allowed per IRS Notice 2020-29
- Permanently increase the Flexible Spending Account carryover amount from \$500 to \$550 as indexed for inflation for plan year 2020 and subsequent years per IRS Notice 2020-33

The purpose of the revised policy is to provide expanded cafeteria plan benefits to eligible employees. These amendments provide much needed relief to employees during the current public health emergency pandemic. For these reasons, it is recommended that the Board of Supervisors approve the temporary and permanent amendment to the Monterey County Section 125 Flexible Benefit Plan.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has been involved in the updating of the Monterey County Section 125 Flexible Benefit Plan. Employee groups were provided the updated plan document and given an opportunity to comment.

FINANCING:

The Internal Service Fund will absorb the costs associated with the one-time administrative fee to update the service agreement with the third-party administrator.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiative(s):

- Economic Development - Through collaboration, strengthen economic development to ensure a diversified and healthy economy.
- Administration - Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.
- Health & Human Services - Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for health choices and healthy environments in collaboration with communities.
- Infrastructure - Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.
- Public Safety - Create a safe environment for people to achieve their potential, leading business and communities to thrive and grow by reducing violent crimes as well as crimes in general.

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Approved by: Irma Ramirez-Bough, Director of Human Resources

Attachments:

Board Report

Attachment A- Current Section 125 Flexible Benefit Plan

Attachment B- IRS Notice 2020-29

Attachment C- Temporary Section 125 Flexible Benefit Plan Amendment

Attachment D- IRS Notice 2020-33

Attachment E- Permanent Section 125 Flexible Benefit Plan Amendment

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