



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: RES 17-061, **Version:** 1

Adopt Resolution to:

- a. Authorize the release of \$715,135 from the Non-Recoverable Costs fund balance assignment (BSA 3131 Sub Fund EDDW) to cover a legal settlement with the State Employment Development Department (4/5th Vote Required); and
- b. Authorize the Auditor-Controller to increasing appropriations the County Administrative Office, 001-1050-CAO017-8038 Adopted 2016-17 Budget by \$715,135 funded by a release from the Non-Recoverable Costs fund balance assignment (BSA 3131) of \$715,135 (4/5th Vote Required); and
- c. Authorize the Auditor-Controller to increasing appropriations the County's Workforce Development 007-1070-8427-DEO026 by \$715,135 funded by a transfer from the County Administrative Office, 001-1050-CAO017 of \$715,135 as an operating transfer in to cover legal settlement with the State Employment Development Department, financed (4/5th Vote Required);

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a) Authorize the release of \$715,135 from the Non-Recoverable Costs fund balance assignment (BSA 3131 Sub Fund EDDW) to cover a legal settlement with the State Employment Development Department (4/5th Vote Required); and
- b) Authorize the Auditor-Controller to increasing appropriations the County Administrative Office, 001-1050-CAO017-8038 Adopted 2016-17 Budget by \$715,135 funded by a release from the Non-Recoverable Costs fund balance assignment (BSA 3131) of \$715,135 (4/5th Vote Required); and
- c) Authorize the Auditor-Controller to increasing appropriations the County's Workforce Development 007-1070-8427-DEO026 by \$715,135 funded by a transfer from the County Administrative Office, 001-1050-CAO017 of \$715,135 as an operating transfer in to cover legal settlement with the State Employment Development Department, financed (4/5th Vote Required);

SUMMARY/DISCUSSION:

In 2013, an audit was conducted by the State Employment Development Department (EDD) of expenditures made in the Monterey County Workforce Development Board's (WDB) Dislocated Worker program, the WDB's California Gang Reduction, Intervention, and Prevention program, and the administrative leave and severance compensation paid to a former WDB Executive Director. In March 2014, EDD disallowed expenditures totaling \$859,911.20. EDD's notices provided that payment of the disallowances from federal Workforce Development Board funds was prohibited.

Because of extensive negotiations, EDD agreed to reduce the disallowed amount to a new total of \$715,134.89. It issued a Final Determination in this amount in November 2016.

Based on the recommendation of County Counsel, at its meeting of December 22, 2016, the Board of Supervisors agreed to accept the compromise and directed payment of \$715,134.89 in settlement of EDD's assessment. It directed County Counsel to explore the possibility of repayment terms with EDD, e.g., installment payments or deferred payments, that might mitigate effects upon the County's budget. County Counsel advised the Board that payment from non-federal County funds was required and noted that a funding source had not been identified at that point in time.

On March 14, 2017, the Board of Supervisors received the Monterey County Financial Forecast and adopted a resolution authorizing the Auditor-Controller to amend the County of Monterey s Fiscal Year 2016-17 Adopted Budget in various ways. Item Number 11 of the Board’s resolution authorized the transfer of \$715,135 from the Strategic Reserve, BSA 3111, into the new fund balance assignment, *Non-Recoverable Costs*, to pay the settlement with EDD.

After internal review, consensus is that the optimum choice for the County is immediate and full payment of the reduced EDD assessment. Per the Board’s resolution of March 14, 2017, the CAO identified the source of payment as the new fund balance assignment BSA-3131 named *Non-Recoverable Costs*.

OTHER AGENCY INVOLVEMENT:

County Counsel worked with the Workforce Development Board and the County Administrative Office to achieve a reduction in the assessed amount, as described, and to present the proposed settlement with EDD to the Board of Supervisors for its approval.

FINANCING:

The Board approved transfers on March 14, 2017 of \$715,135 from the Strategic Reserve (BSA 3111) into the new Non-Recoverable Cost fund balance assignment (BSA 3131) for legal settlement with the State Employment Development Department, related to the County’s Workforce Development Board. The recommended modifications approved on March 14, 2017 reduced the general fund portion of the Strategic Reserve from \$56.1 million to \$25.2 million in response to the Hernandez v. County of Monterey settlement, recent disasters, Measure Z legal defense, and a settlement with the State.

Prepared by:

Approved by:

Christopher Donnelly
Interim Executive Director
Workforce Development Board
831.759.6644

Nicholas E. Chiulos
Assistant County Administrative Officer
County Administrative Office
831.755.5145

ATTACHMENTS:

Resolution