



County of Monterey

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

Board Report

File #: 13-0095, **Version:** 1

Approve a Side Letter Agreement between the Monterey County Deputy Sheriff's Association (DSA) and the County of Monterey regarding the DSA Settlement Agreement.
(Moved to General Government via Supplemental)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve a Side Letter Agreement between the Monterey County Deputy Sheriff's Association and the County of Monterey regarding the DSA Settlement Agreement.

SUMMARY/DISCUSSION:

The Deputy Sheriff's Association (DSA) and County of Monterey entered into a Settlement Agreement filed on November 28, 2011, resolving the litigation known as *Daniel J. Mitchell v. County of Monterey* (Case Number 5:08-cv-01166-JW). In part, the Agreement stated that employees in the Sheriff's Office were not being paid in compliance with Fair Labor Standards Act (FLSA). Sections 1 and 2 of the Terms portion of the Settlement Agreement calls for "special paid leave" to be provided to certain employees in accordance with the Agreement. Section 3 specifies that the leave must be used within the applicable year or it will be lost.

The term "special paid leave" is not defined in the current MOU, nor is that type of leave category programmed into the County's payroll system. In order to ensure that "special paid leave" is calculated as productive time in determining overtime calculations, and to provide adequate time for the employees to utilize this leave bank prior to its expiration, the DSA and County have negotiated a side letter agreeing to the following:

1. Any Deputy Sheriff, Sheriff's Sergeant, Correctional Sergeant, or Investigative Sergeant who utilizes "special paid leave" in accordance with the terms of the Settlement Agreement, shall have that time treated as "time actually worked" per the MOU Addendums for Unit A and B.
2. In recognition of the County's delay in programming the "special paid leave" bank into the payroll system, employees eligible for the "special paid leave", will have their "special paid leave" hours accrued under paragraphs one and two of the Settlement Agreement credited to their vacation accrual for year one. The hours awarded through the settlement agreement for year two will be placed in the "special paid leave" bucket. In year two, any hours credited shall be taken within the same calendar year unless the County fails to provide the aforementioned employees their "special paid leave hours" for year two by the end of the first paid period for DSA employees in 2013. If the County fails to provide the aforementioned employees their "special paid leave hours" for year two by the end of the first paid period for DSA employees in 2013, said employees will have their "special paid leave" hours credited to their vacation.
3. "Special paid leave" hours that are awarded in 2014 and after, shall be taken within the same calendar year.
4. If an employee who qualifies for the "special paid leave" as defined in Section 2 of the Settlement Agreement is transferred, promoted, demoted or assigned to a position covered by the Settlement

Agreement but that does not qualify for the “special paid leave”, the employee shall be entitled to use any remaining “special paid leave” balance prior to the end of the calendar year in which the “special paid leave” was granted.

5. If an employee who qualifies for the “special paid leave” as defined in Section 2 of the Settlement Agreement is transferred, promoted, demoted or assigned to a position that qualifies for a different amount of “special paid leave”, the employee’s “special paid leave” bank shall be adjusted to the nearest hour in proportion to the number of months that the employee worked in each eligible classification during that calendar year. If the employee has used any of the “special paid leave” hours in that calendar year, the total number of hours used will be subtracted from the adjusted balance. If the total number of “special paid leave” hours used exceeds the adjusted balance, the employee shall not be entitled to any additional hours nor will the employee “owe” the County any hours in return. In no case shall any employee be entitled to more than sixteen (16) hours of “special paid leave” in any calendar year.
6. Employees shall not be allowed to “cash out” any “special paid leave” hours, nor to accrue those hours beyond the calendar year in which they are earned, except as provided in No. 2 above.

All other provisions of the November 28, 2011 Settlement Agreement shall remain in full force and effect. It is recommended that the Board of Supervisors approve the Side Letter Agreement between the County of Monterey and Deputy Sheriff’s Association.

OTHER AGENCY INVOLVEMENT:

The Monterey County Sheriff’s Office and the Deputy Sheriff’s Association concurs with this action.

FINANCING:

Potential impacts are increased leave accruals and/or increased time away from work which may ultimately have an adverse impact on future leave pay-outs (termination benefits) and overtime, respectively.

Prepared by:

Approved by:

Brette Neal
Senior Personnel Analyst

James E. May
Director of Human Resources

Date: February 12, 2012

Att: Side Letter Agreement regarding Settlement Agreement

cc: Lew C. Bauman, County Administrative Officer
Scott Miller, Sheriff

Michael Miller, Auditor-Controller
Janet L. Holmes, Deputy County Counsel
Dan Mitchell, DSA President