



County of Monterey

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

Board Report

File #: 21-582, Version: 1

- a. Approve the temporary amendment to the Monterey County Section 125 Flexible Benefit Plan to increase the Dependent Care Assistance Program contribution limit from \$5,000 to \$10,500 for plan year 2021 only; and
- b. 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 2021 only; and
- c. Approve the temporary amendment to the Monterey County Section 125 Flexible Benefit Plan to increase the Flexible Spending Account and the Dependent Care Assistance Program carryover limits to the participant's unused funds balance at the end of the plan year for plan year 2020 into plan year 2021 and for plan year 2021 to plan year 2022 only; and
- d. Authorize the Human Resources Department and the Auditor-Controller's Office to implement the temporary 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 increase the Dependent Care Assistance Program contribution limit from \$5,000 to \$10,500 for plan year 2021 only; and
- b. 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 2021 only; and
- c. Approve the temporary amendment to the Monterey County Section 125 Flexible Benefit Plan to increase the Flexible Spending Account and the Dependent Care Assistance Program carryover limits to the participant's unused funds balance at the end of the plan year for plan year 2020 into plan year 2021 and for plan year 2021 to plan year 2022 only; and
- d. Authorize the Human Resources Department and the Auditor-Controller's Office to implement the temporary amendments to the Monterey County Section 125 Flexible Benefit Plan.

SUMMARY/DISCUSSION:

On December 27, 2020 the Consolidated Appropriations Act, 2021 (CAA) was signed into law allowing employers to temporarily increase the Flexible Spending Account and Dependent Care Assistance Program rollover amounts for plan years 2020 and 2021. Additionally, on March 11, 2021 the American Rescue Plan Act of 2021 (ARPA) was signed into law by President Biden. ARPA allows employer to increase the Dependent Care Assistance Program contribution limit to \$10,500 and provides employees the opportunity to make a one-time mid-year election change for plan year 2021 to the Flexible Spending Account and the Dependent Care Assistance Program.

In order to adopt and implement the provision afforded under the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021, the County must approve the 2021 Cafeteria Plan Amendment (Attachment A). The County's Section 125 Flexible Benefit Plan is the written plan document which allows the

County to provide medical, dental, vision, Flexible Spending Account (FSA), and Dependent Care Assistance Program (DCAP) benefits to employees on a pre-tax basis.

The Consolidated Appropriations Act, 2021 permits the County to temporarily increase the rollover limit for plan years 2020 and 2021. This allows employees with unused funds in their FSA and DCAP accounts as of the end of the plan year to rollover those funds to the next subsequent plan year for use to cover eligible health and dependent care expenses. Forfeitures reported for plan year 2020, totaled 202 employees with \$95,171.32 in Flexible Spending Account funds and 58 employees with \$43,716.65 in Dependent Care Assistance Program funds. The approval of this temporary amendment would restore previously forfeited employee contributions to employees' account balances and allow employees to be reimbursed for eligible expenses incurred in plan year 2021.

The American Rescue Plan Act of 2021 (ARPA) allows employers to temporarily increase the contribution limit to the Dependent Care Assistance Program from \$5,000 to \$10,500 and allow employees to make a one-time mid-year election change for plan year 2021. This provision would allow employees to make a one-time election change to increase or decrease contributions or elect new enrollment in the Dependent Care Assistance Program and/or the Flexible Spending Account.

The Human Resources Department has been engaged in temporarily updating the Monterey County Section 125 Flexible Benefit Plan to incorporate the provisions allowed under the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act. 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 temporary changes to the Monterey County Section 125 Flexible Benefit Plan:

- Increase the Dependent Care Assistance Program contribution limit from \$5,000 to \$10,500 for plan year 2021 only
- Allow employees to make a one-time mid-year change to their Flexible Spending Account and/or Dependent Care Assistance Program for plan year 2021 only
- Increase the Flexible Spending Account and the Dependent Care Assistance Program carryover limits to the participant's unused funds balance at the end of the plan year for plan year 2020 into plan year 2021 and for plan year 2021 to plan year 2022

These provisions will provide much needed relief to County employees as it would restore previously forfeited employee contributions to Flexible Spending Accounts and Dependent Care Assistance Programs. Additionally, it would help support employees experiencing challenges with childcare expenses and healthcare costs. For these reasons, it is recommended that the Board of Supervisors approve the temporary amendment to the Monterey County Section 125 Flexible Benefit Plan.

OTHER AGENCY INVOLVEMENT:

The Human Resources Department has consulted with the County Administrative Office, and the Offices of the County Counsel and Auditor-Controller regarding the applicability and implementation of these changes. Employee groups were provided the cafeteria plan amendment and given an opportunity to comment.

FINANCING:

There are no associated costs with the implementation of these provisions as contributions toward Flexible Spending Accounts and Dependent Care Assistance Programs are funded by employee payroll deductions.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action addresses the Board of Supervisors' Administration Strategic Initiative and demonstrates the County's commitment to attract, recruit, and retain a diverse, highly skilled workforce that supports the mission of Monterey County.

- ☐ Economic Development
- ☒ Administration
- ☒ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

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Attachment: Attachment A - 2021 Cafeteria Plan Amendment