



Solano Local Agency Formation Commission

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Staff Report

DATE: August 8, 2016
TO: Local Agency Formation Commission
FROM: Elliot Mulberg, Executive Officer
SUBJECT: **Solano LAFCO Leave Accrual Policy**

RECOMMENDATION: That the Commission amend the personnel salary resolution as recommended by the Personnel Committee and adopt the attached resolution.

DISCUSSION:

Solano LAFCO's Personnel Salary Resolution allows an employee to buy back leave that has accrued over the year. The policy specifies that leave may be purchased only once in a twelve month period with no specified date when the employee makes that decision and when it is paid.

It has been brought to our attention that the policy does not comply with the IRS "constructive receipt" doctrine. For federal income tax purposes, the doctrine of constructive receipt is used to determine when a cash-basis taxpayer has received gross income. A taxpayer is subject to tax in the current year if he or she has unfettered control in determining when items of income will or should be paid. To address that concern the proposed policy establishes a date by which the employee must decide when to request a payout. As shown the request must be made between November 1 and December 20 each year. The payout would be scheduled for the next calendar year.

At the July 21, 2016 Personnel Committee meeting the Committee reviewed the proposed changes and recommends the Commission adopt the change as noted to the Personnel Salary Resolution. The new policy would replace section 4.2.G in the Personnel Salary Resolution and is shown in strike-out underline as follows.

Vacation Buyback Policy Amendment

Proposed

~~G. An employee who has accumulated the maximum accrual for his/her years of service (160/240/320/440) hours and who has taken eighty (80) hours of vacation within the previous 26 pay periods, may request payment for up to forty (40) hours of vacation pay by submitting a written request for payment to the Executive Officer or when appropriate the Chairperson. Only one such request may be made or paid during any 12 calendar month period.~~

Any employee may convert accrued leave to cash in one of two ways.

Prior to the beginning of each calendar year, an employee wishing to cash out up to forty (40) hours of vacation accruals may make such request to the Executive Officer, or when appropriate the Chairperson, between November 1st and by not later than December 20th of the preceding year. The election shall be irrevocable. Payment will be made before December 31st of the next calendar year. Approval of such a request will be conditional upon:

- (a) the projection that the employee will reach the maximum vacation accrual based on his/her years of service (160/240/320/440 hours) during the following calendar year; and
- (b) the requirement for the employee to have accrued the requested number of hours to be cashed out; and
- (c) the requirement that the employee has taken at least eighty (80) hours of vacation during the calendar year in which the irrevocable election is made.

RESOLUTION NO. 16-08

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF SOLANO COUNTY AMENDING THE LEAVE ACCRUAL POLICY IN THE PERSONNEL SALARY
RESOLUTION**

WHEREAS, Solano LAFCO has an approved Personnel Salary Resolution which contains a leave accrual policy; and

WHEREAS, the Internal Revenue Service doctrine of constructive receipt requires a determination of when a cash-basis taxpayer has received gross income; and

WHEREAS, Solano LAFCO's leave accrual policy needs to be modified to comply with the doctrine of constructive receipt; and

WHEREAS, this Solano LAFCO met on August 8, 2016 to consider a revision to the leave accrual policy as shown in Attachment A;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Local Agency Formation Commission of Solano County that Personnel Salary Resolution is amended to include the revised leave accrual policy as shown in Attachment A.

UPON MOTION of Commissioner _____ seconded by Commissioner _____, the foregoing resolution is adopted this 8th day of August 2016 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

John Saunderson, Chair
Local Agency Formation Commission
County of Solano, State of California

ATTEST:

Elliot Mulberg, Executive Officer

Attachment A
Vacation Buyback Policy

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- (b) the requirement for the employee to have accrued the requested number of hours to be cashed out; and
- (c) the requirement that the employee has taken at least eighty (80) hours of vacation during the calendar year in which the irrevocable election is made.